

LAWS OF  
INDIANA

General Laws

Thirty Third Session  
1848-49



GENERAL LAWS

OF THE

STATE OF INDIANA,

PASSED AT THE

THIRTY-THIRD SESSION

OF THE

GENERAL ASSEMBLY.

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March 5, 1910

BY AUTHORITY.

INDIANAPOLIS:

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1849.



# GENERAL LAWS.

## CHAPTER I.

*AN ACT authorizing compensation to be made to the Adjutant General for organizing the 4th and 5th Regiments of Indiana Volunteers.*

(APPROVED JANUARY 15, 1849.)

### SECTION

1. Allowance to Adjutant General for organizing the 4th and 5th Regiments of Volunteers.

### SECTION

2. To be paid from State Treasury — with proviso that he give bond to refund on certain contingencies.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the Adjutant General of said State be allowed for his services and expenses in organizing the 4th and 5th Regiments of Volunteers for the war with Mexico in 1847, one hundred and eighty-three dollars per month for four months and twenty-three days, and ten cents per mile for 664 miles transportation in connection with said organization, being the commutation allowance of Staff Officers with the rank of Colonel in the army of the United States, and that he be allowed six per cent. on said amounts for one year.*

SEC. 2. *And be it further enacted, That said accounts shall be paid out of any moneys in the State Treasury not otherwise appropriated, and that the Treasurer of State shall pay the same and take triplicate receipts therefor, two of which are to be forwarded to the Secretary of War, that the money may be refunded to the State Treasury under the provisions of an act of Congress, approved June 2, 1848: Provided, That before said Adjutant General shall receive any of the appropriation, except three hundred dollars, he shall give a bond in the penalty of one thousand dollars, with good security, payable to the State, that he will refund all of this appropriation, except the three hundred dollars, to the State Treasury, unless the General Government shall within two years from the passage of this act refund the same.*



## CHAPTER II.

*AN ACT to amend Article 5 of the Revised Statutes of 1843, relative to writs of ad quod damnum.*

(APPROVED JANUARY 16, 1849.)

## SECTION

1. Owners of Mill Seats may acquire right to divert water course—and how.

## SECTION

2. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That in all cases where any owner of any land may desire to erect thereon any mill or other machinery to be propelled by water diverted for that purpose from any stream which, in its natural course, between the point at which such water may be proposed to be diverted, and the bottom of the race below the water-wheel of such proposed mill or other machinery, runs partly on the lands of such person, and partly on the lands of such other persons, such person so desiring to erect such mill or other machinery, may acquire the right to divert such water course to propel the same in the manner prescribed in the act to which this is an amendment; and the provisions of the article to which this is an amendment are hereby declared to apply to all cases arising under this act, so far as the same may be applicable.*

SEC. 2. So much of any act or acts as may conflict with the provisions of this act be, and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER III.

*AN ACT to authorize the erection of dams in the Wabash River and its tributaries, above the Delphi Dam.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the provisions of the Revised Statutes of A. D., 1843, and of the acts amendatory thereof, regulating the writ of ad quod damnum be, and the same is hereby applied to the Wabash River and its tributary streams along the Delphi dam.*

SEC. 2. This act to be in force from and after its passage.

## CHAPTER IV.

*AN ACT making General Appropriations, &c., for the year 1849, and for other purposes.*

(APPROVED JANUARY 16, 1849.)

## SECTION

1. To legalize payments overdrawn, for certain purposes.
2. Other appropriations for certain purposes.

## SECTION

3. Revenue for Benevolent Institutions, to be expended under the respective laws for said objects.
4. Governor, Auditor, and Treasurer of State make loans if expedient.

WHEREAS, The Auditors and Treasurers of State of former years have severally issued and paid warrants upon the treasury for various purposes to large amounts over and above the general appropriations made by the General Assembly for such purposes, whereby the books of said officers show a large amount of money overdrawn: Therefore, in order to authorize said officers to balance said several accounts, and to legalize the payments of said several accounts overdrawn:

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That for the purpose aforesaid the following sums be appropriated (nunc pro tunc,) to-wit: For the General Assembly seven thousand and ten dollars and ten cents; for Executive officers one thousand one hundred and fifty-three dollars and three cents; for the Judiciary thirteen thousand two hundred and thirty-seven dollars and seventy-five cents; for Probate Judges five thousand six hundred and twenty-three dollars; for the State House three hundred and fifty-seven dollars and ninety-four cents; for Specific appropriations three thousand nine hundred and two dollars and eighty-two cents; for Prosecuting Attorneys nine hundred and ninety-nine dollars and twenty-five cents; for the State Library eight hundred and two dollars and five cents; for Adjutant and Quartermaster General nine hundred and eighty-seven dollars and seventy-four cents; for the Governor's House one hundred and ninety-four dollars and eighty-one cents; for Stationery and Fuel ten thousand six hundred and forty-one dollars and thirty-nine cents; and for the State's Prison two hundred and sixty dollars and four cents.*

SEC. 2. *Be it further enacted, That for the purpose of meeting and discharging the current expenses of the State Government for the year 1849, the following sums be, and the same hereby are, appropriated, to-wit: For the General Assembly thirty thousand dollars; for the Judiciary fourteen thousand five hundred dollars; for the Executive Officers five thousand dollars; for the Public Printing six thousand dollars; for Probate Judges four thousand five hundred dollars; for Specific Appropriations three thousand five hun-*



dred dollars; for Stationery and Fuel two thousand five hundred dollars; for the State Prison three thousand dollars; for the Contingent Fund five hundred dollars; for Prosecuting Attorneys five hundred dollars; for the Distribution of the Laws and Journals four hundred dollars; for the State Library eight hundred dollars; for the Militia two hundred dollars; for the State House three hundred dollars; for the Governor's House two hundred dollars; for the Governor's Circle one hundred dollars; and for the Transportation of Public Arms one hundred dollars.

SEC. 3. That the sums respectively assessed and collected under the revenue laws passed at this session for the benefit of the Asylums for the Insane and Deaf and Dumb, and for the Institute for the Education of the Blind be, and the same are hereby appropriated and directed to be expended under the respective laws for said objects.

SEC. 4. That the Governor, Auditor, and Treasurer of State be, and they are hereby, authorized to procure, by temporary loan from the branches of the State Bank of Indiana, or from the Sinking Fund, an amount of money sufficient to meet the deficiency in the Treasury (should any occur) to pay the instalment of interest on the public debt of the State of Indiana, due on the first of July, 1849, if in the opinion of said Governor, Auditor, and Treasurer it shall be expedient to do so.

SEC. 5. This act to take effect and be in force from and after its passage.

## CHAPTER V.

### AN ACT making Specific Appropriations for the year 1849.

(APPROVED JANUARY 16, 1849.)

SECTION.	SECTION.
1. Secretaries and Clerks of Senate and House of Representatives.	15. Laz Noble.
2. Doorkeeper of Senate.	16. M. Shea.
3. S. J. Johnson.	17. Indexing Journals.
4. C. C. Jaquith.	18. C. & J. Cox.
5. W. B. Douglass.	19. D. Reynolds.
6. D. Leach.	20. H. Perry.
7. S. Tufts.	21. Noel & Co.
8. S. P. Daniels.	23. T. F. Purcell.
9. J. A. Messick.	23. Hood & Noble.
10. A. Balls.	24. D. Craighead.
11. M. Lonergan.	25. L. L. Brown.
12. J. P. Tyler.	26. J. J. Stretcher.
13. C. S. Horton.	27. Douglass & Elder.
14. S. Tufts.	28. J. D. Defrees.
	29. Chapmans & Spann.

SECTION	SECTION
30. J. T. Beck.	45. S. Henderson.
31. J. J. Stretcher.	46. C. G. Ballard.
32. Additional allowance for enrolling.	47. Talbot & Morrison.
33. H. Richards.	48. D. Craighead.
34. A. J. Carr.	49. Weaver & Williams.
35. G. W. Carr.	50. Kellogg & Davidson.
36. P. C. Dunning.	51. Vandegriff & Greer.
37. R. A. Riley.	52. W. W. Wright.
38. E. Burns.	53. W. R. Strange.
39. D. Quin.	54. A. C. Bales, S. C. Daniels, M. Lonager, and J. Messick.
40. Secretary of State not to be deprived of fees.	55. J. C. Wells.
41. L. P. Frazier.	56. For correcting proof of laws, &c.
42. J. R. Stone.	57. T. D. Eggesfield.
43. L. Leslie.	58. C. Clapper.
44. Administrator of G. C. Gilbert.	

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Principal and Assistant Secretaries, elected by the Senate, and the Principal and Assistant Clerks, elected by the House of Representatives, shall each be allowed four dollars per day for each and every day they may have served as such at the present session. And that such assistants as may have been employed by any of the aforesaid Secretaries or Clerks, under any order of the respective bodies, be allowed four dollars per day for every day so employed, to be computed by said Principals and Assistants, and certified by the President of the Senate and Speaker of the House of Representatives respectively.

SEC. 2. That the doorkeeper of the Senate shall be allowed one hundred and forty-four dollars for forty-eight days services during the present session, and for cleaning up the Senate chamber at the close of the session.

SEC. 3. That Samuel J. Johnson be allowed one hundred and thirty-eight dollars for forty-six days services as doorkeeper of the House of Representatives, and cleaning up the State House at the close of the session.

SEC. 4. That C. C. Jaquith shall be allowed one hundred and thirty-two dollars for forty-four days services as an assistant doorkeeper of the Senate during the present session.

SEC. 5. That William B. Douglass shall be allowed one hundred and forty-one dollars for forty-seven days services as an assistant doorkeeper to the House of Representatives, and for cleaning up the State House at the present session.

SEC. 6. That David Leach shall be allowed one hundred and thirty-eight dollars for forty-six days services as woodman to the House of Representatives during the present session.

SEC. 7. That S. Tufts be allowed three dollars for expenses paid in summoning a witness in Bartholomew county, to appear before the select committee appointed on the petition of James Galletly.

SEC. 8. That Samuel P. Daniels shall be allowed one hundred and thirty-two dollars for forty-four days services as an assistant doorkeeper of the Senate during the present session.

SEC. 9. That Joseph A. Messick shall be allowed one hundred



and thirty-two dollars for forty-four days services as an assistant doorkeeper of the Senate during the present session.

SEC. 10. That Archibald Bales be allowed one hundred and thirty-two dollars for forty-four days services as an assistant doorkeeper of the Senate at the present session.

SEC. 11. That Michael Lonergan shall be allowed one hundred and thirty-two dollars for forty-four days services as an assistant doorkeeper of the Senate at the present session.

SEC. 12. That James P. Tyler shall be allowed one hundred and forty-two dollars for forty-four days services as an assistant doorkeeper of the House of Representatives at the present session.

SEC. 13. That C. S. Horton be allowed one hundred and thirty-two dollars for forty-four days services as an assistant to the doorkeeper of the House of Representatives during the present session.

SEC. 14. That Servetus Tufts shall be allowed one hundred and thirty-eight dollars for forty-six days services as an assistant to the doorkeeper of the House during the present session.

SEC. 15. That Laz. Noble be allowed four dollars per day for each and every day's services rendered as Clerk of the Committee of Ways and Means, during the present session of the General Assembly.

SEC. 16. That Michael Shea be allowed one hundred and thirty-two dollars for forty-four days services during the present session in sawing wood, making fires in Governor's room and State Library, lighting lamps, &c., under directions from the State Librarian.

SEC. 17. That the Secretary of the Senate and Principal Clerk of the House of Representatives be allowed fifty dollars each for indexing the journals of said houses respectively, at the present session of the General Assembly.

SEC. 18. That C. & J. Cox be allowed twenty dollars and thirty-five cents for lamp and other articles furnished for the State House at the present session.

SEC. 19. That David Reynolds shall be allowed fifty-eight dollars and seventy-seven cents for rent, fuel, stationery, &c., of Adjutant General's office for 1848, furnished by him.

SEC. 20. That Harry Perry shall be allowed the sum of forty dollars for keeping in order the privy in the State House yard during present session.

SEC. 21. That Noel & Co. be allowed ninety-nine dollars and twenty-four cents for sundry articles furnished the Legislature.

SEC. 22. That Thomas F. Purnell be allowed four dollars and twenty-one cents for merchandize.

SEC. 23. That Hood & Noble be allowed eleven dollars and seventy-nine cents for stationery furnished.

SEC. 24. That David Craighead be allowed five dollars and eight cents for sundries furnished the House.

SEC. 25. That Lewis F. Brown be allowed seventy-five dollars, and eighty-seven cents for apprehending two horse thieves in Ohio, under a requisition of the Governor of this State.

SEC. 26. That Joseph I. Stretcher be allowed twenty-four dollars, for one dozen cane seat chairs, furnished the Senate Chamber.

SEC. 27. That Douglass and Elder be allowed thirty-nine dollars, for one hundred and fifty-six copies of the Locomotive, furnished the Senate under a resolution of that body.

SEC. 28. That John D. Defress be allowed four hundred and eighty-three dollars, for furnishing Daily Journal to the Senate and House of Representatives during the present session.

SEC. 29. That Chapmans & Spann be allowed four hundred and eighty-three dollars, for furnishing Tri-Weekly Sentinel to the Senate and House of Representatives during the present session.

SEC. 30. That Isham T. Beck be allowed eight dollars, for boarding Mr. Vest, a volunteer, during sickness, in June, 1846.

SEC. 31. That Joseph I. Stretcher be allowed eleven dollars and fifteen cents, for repairs to the furniture in the State House.

SEC. 32. That in addition to the amount now allowed for enrolling, the Secretary of State for services rendered at the present session, shall be allowed as provided in the sixty-fifth section of the act making specific appropriations for the year 1848, and the same shall be hereafter allowed annually as provided in said section, in addition to the regular amount now paid for said enrolling.

SEC. 33. That Harlan Richards shall be allowed twenty-seven dollars and fifty cents, for eleven days' attendance before the committee as a witness in the matter of James Galletly against the Branch Bank; and that Samuel Scott be allowed twenty-five dollars, for ten days' attendance in the same matter; and that D. Deming be allowed fifteen dollars, for six days' attendance in the same matter; and that Stephen H. Taylor be allowed forty dollars, for expenses and services in summoning witnesses in the same matter.

SEC. 34. That Andrew J. Carr, the Executive Messenger of the Governor, be allowed three dollars per day for each and every day he may have served as such at the present session, the same to be certified by the Governor.

SEC. 35. That the Hon. George W. Carr, Speaker of the House of Representatives, be allowed two dollars, for postage paid out by him for public papers and documents, during the present session.

SEC. 36. That Paris C. Dunning, President of the Senate, be allowed two dollars for postage paid out by him on public papers and documents, during the present session.

SEC. 37. That R. A. Riley shall be and he is hereby allowed twenty dollars, to be paid out of the State Treasury, to be deducted out of the salary of the Prosecuting Attorney for the Fifth Judicial District, being for services rendered as special Prosecuting Attorney, at the Spring term, 1848, of the Hancock Circuit Court.

SEC. 38. That Edward Burns be allowed the sum of nine dollars and seventy cents, for monies by him paid for the transportation of public arms from Indianapolis to Florence, Indiana.

SEC. 39. That David Quin be allowed the sum of thirty-one



dollars and forty-seven cents, for amount of claim on the White Water Canal, allowed by Noah Noble, Canal Commissioner, to be paid upon the surrender of the certificate to the Auditor of State.

SEC. 40. That no law shall be so construed as to deprive the Secretary of State of his fees for any certificate, or copy of any record or law which may be demanded or required.

SEC. 41. That Lemuel P. Frazier be and he is hereby allowed the sum of sixteen dollars, for the rent of a room to Bazil Brown, Superintendent of the Central Canal, for the term of four months, which room was used by said Brown for the purpose of storing iron for the repairs of said Canal.

SEC. 42. That John R. Stone, be allowed the sum of fifty dollars as a compensation for his services as Visitor to the State Prison: *Provided*, That he has not heretofore received the same.

SEC. 43. That the sum of fifty dollars be allowed to Lyman Leslie for professional services and expenses in the McGinley case: *Provided*, That the said Leslie shall first hand over to the Prosecuting Attorney of Floyd county, the brief that has been made or prepared in said case.

SEC. 44. That the administrators of Hon. Goldsmith C. Gilbert be allowed the sum of fifty dollars for expenses incurred in conveying the body of said Gilbert, who died whilst a member of the House of Representatives, in the vicinity of Indianapolis, and was by his friends conveyed to his late residence in Muncietown.

SEC. 45. That Samuel Henderson be allowed five dollars for qualifying witnesses before the committee on Benevolent Institutions at the present session of the General Assembly.

SEC. 46. That Chester G. Ballard be allowed fifty dollars as compensation for services rendered as Visitor to State Prison in the year 1847.

SEC. 47. That Morrison & Talbott be and they are hereby allowed the sum of one hundred and eight dollars and seventy cents, for sundries furnished for the use of the Senate.

SEC. 48. That David Craighead be allowed one dollar and sixty cents, for sundries furnished for the use of the Senate at its present session.

SEC. 49. That Weaver & Williams be allowed the sum of five dollars, for repairs done to desks, &c., for Senate.

SEC. 50. That Kellogg & Davidson be allowed the sum of twelve dollars and four cents, for sundries furnished for the use of Senate.

SEC. 51. That Vandegriff & Greer be allowed fifty-nine dollars and seventy-five cents, for candles and sundries for use of General Assembly.

SEC. 52. That Willis W. Wright & Co., be allowed eight dollars and thirty-one cents, for articles furnished the General Assembly.

SEC. 53. That William R. Strange be allowed sixty dollars for superintending State Printing and correcting proof sheets of laws, &c.

SEC. 54. That Archibald C. Bales, Samuel C. Daniels and Mi-

chael Lonagan each be allowed the sum of nine dollars, for extra services in cleaning up the Senate Chamber and committee rooms prior to the commencement of the session, and that Joseph Messick be allowed the sum of nine dollars, as Assistant Door-keeper of the Senate.

SEC. 55. That Jacob C. Wells be allowed the sum of twelve dollars and twenty-five cents, for monies by him paid for the transportation of public arms from Indianapolis to Rising Sun, in this State.

SEC. 56. That for reading and correcting the proofs, certifying and having the laws of a general and public nature published and distributed through the State, for the years 1846, 1847, and 1848, the Secretary of State be allowed twenty dollars.

SEC. 57. That Thomas D. Egglesfield be and he is hereby allowed the sum of twenty dollars for lumber furnished to the volunteers for tents, during the year 1846.

SEC. 58. That Charles Clopper be allowed six dollars, for services as woodman to the Senate for two days at the commencement of the last session of the General Assembly, the same not having been previously paid or allowed to him for the same.

## CHAPTER VI.

*AN ACT providing for the election of Township Assessors in the counties of Dearborn, Switzerland, Ohio, and Jay.*

(APPROVED JANUARY 16, 1849.)

### SECTION

1. General law for election of—repealed as to certain counties.
2. How elected and when.
3. To give bond—oath.

### SECTION

4. Vacancies—how filled.
5. To return list of taxable property to Auditor—compensation.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of the law as relates to election of County Assessors in this State is hereby repealed, so far as the same relates to the counties of Dearborn, Switzerland, Ohio, and Jay.

SEC. 2. That it shall hereafter be lawful for the qualified voters of each township in said counties of Dearborn, Switzerland, Ohio, and Jay, to elect one Assessor for each township, at their March election annually hereafter.

SEC. 3. Said Assessors when so elected, shall each give bond payable to the State of Indiana, in the penal sum of five hundred



dollars, to be approved of by the board of township trustees where said Assessors reside, and before said Assessors shall enter upon the discharge of their duties assigned them, they shall take an oath before some Justice of the Peace or Notary Public, to faithfully and impartially discharge the duties of said office, and be governed by all the laws now in force governing county Assessors not contravened by the provisions of this act.

SEC. 4. In case of the death, resignation, or inability to serve, of any Assessor elected under this act, it shall be the duty of the board of trustees where such vacancy occurs, to appoint some suitable person to act as assessor, who shall be governed in all respects by the provisions of this act.

SEC. 5. Said Assessors when so elected and qualified, shall be required by this act to return a list of all the taxable property in their respective townships to the Auditors of said counties, on or before the third Monday in May. And said Assessors shall each be allowed the sum of one dollar, except the Assessor of Dearborn county, who shall be allowed one dollar and fifty cents per day, to be verified by the oath of said Assessors.

SEC. 6. All acts and parts of acts conflicting with the provisions of this act are hereby repealed, so far as the same relate to said several counties.

SEC. 7. This act to be in force from and after its publication.

## CHAPTER VII.

### *AN ACT to provide for the election of Township Assessors in the county of Scott.*

(APPROVED JANUARY 12, 1849.)

#### SECTION

1. In Scott county — when and how elected, and their duties.
2. Sheriff to give 20 days notice of election — election how conducted — Judges to certify to Auditor — Auditor's duties.
3. Assessors to give bond — oath.
4. Vacancies — how filled.
5. Persons appointed to fill vacancies, to file bond and take oath as if elected.

#### SECTION

6. Fined for neglect of duty.
7. Further duties of Assessor — requirements of tax payers.
8. Tax payers failing to give list — Assessors to assess his fee therefor and how collected.
9. Compensation.
10. Duty of County Board.
11. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in the county of Scott there shall be elected on the first Monday of April, annually, one assessor in and for each township, by the qualified voters thereof respectively. Such assessors shall hold their offices one year and until their successors shall be

elected and qualified, and shall do and perform all such duties as now are, or may hereafter be required by law to be performed by assessors.

SEC. 2. It is hereby made the duty of the Sheriff of said county to put up one written notice in the most public place in each township at least twenty days previous to the time of holding said elections, of the time and place of holding the same. Said elections shall be conducted in all respects as other township elections. It is made the duty of the judges of the election to certify to the County Auditor the persons receiving the highest number of votes given, who shall give to the person so elected a certificate of his election, and it is made the duty of the County Auditor to furnish the several township Assessors with stationery sufficient to take a list of the taxable property of their townships.

SEC. 3. And the township Assessors previous to entering on the duties of his office shall give bond with good and sufficient security to the acceptance of the board doing county business, or in vacation, to the County Auditor, in the penal sum of two hundred dollars, payable to the State of Indiana and conditioned for the faithful and impartial discharge of the duties of his office according to law, and shall take and subscribe an oath or affirmation, to be endorsed on his bond, that he will faithfully and impartially discharge the duties of his office according to the best of his skill and abilities, and the bond so endorsed shall be deposited with the County Auditor, and by him carefully preserved, and said Auditor is hereby authorized to administer the oath of office aforesaid.

SEC. 4. That if any township Assessor shall fail to give bond and security or shall fail to take the oath or affirmation as required in the preceding section, on or before the second Monday in September next after his election, his office shall be considered vacant, and the County Auditor shall then fill such vacancy by appointment, which appointment and the proceedings thereon he shall lay before the county board, at their next meeting thereafter for their approval, and should any vacancy or vacancies occur by death, resignation, or otherwise, the same shall be filled as is heretofore provided in this section.

SEC. 5. Whenever such vacancies occur and are filled as herein before provided, the person so appointed to fill such vacancy shall give bond and take the same oath or affirmation as is provided in the third section of this act.

SEC. 6. That if any assessor shall be guilty of neglect of any duties now prescribed by law, or may hereafter be prescribed, such assessor shall upon presentment or indictment, be fined in any sum not exceeding fifty dollars, at the discretion of the jury or court trying the same, for the use of the proper county seminary.

SEC. 7. The assessors elected or appointed as provided in this act, shall on the first Monday and Tuesday of April in each year, meet the tax payers of their townships at the usual place of holding elections in said townships, and the assessor shall there receive a



list of the assessable property of each person liable to pay taxes in said township; *Provided however*, That every tax payer may at any time between the aforesaid second Monday in March and the fourth Monday in April, hand in to the assessor a list of his taxable property.

SEC. 8. Should any tax payer neglect or refuse to hand in a list of his taxable property as provided in the seventh section of this act, before the said fourth Monday in April, then the assessor shall visit the house or houses of such tax payer, or tax payers, and there take a list of his, her, or their taxable property, charging each one so having neglected, twenty-five cents, which shall be collected by the County Treasurer for the use of said assessor, in the mode prescribed by law for the collection of taxes.

SEC. 9. Each township assessor shall receive for each day's services as is provided in the seventh section of this act, one dollar and fifty cents per day; *Provided however*, Should the county board in their discretion deem two days less than sufficient time to discharge the duties assigned them, they are hereby authorized to prescribe the additional number and allow the assessors accordingly.

SEC. 10. It shall be the duty of the county board to compare the books of the several assessors of said county, at their May term, at which time it is hereby made the duty of said assessors to make their return to said board, and equalize, if necessary, any or all valuations of property so assessed.

SEC. 11. All acts and parts of acts coming within the purview of this act, are hereby repealed, so far as relates to the county of Scott.

SEC. 12. This act to take effect and be in force from and after the expiration of the term of service of the present incumbent.

## CHAPTER VIII.

### AN ACT to provide for the election of Township Assessors in the county of Jay.

(APPROVED JANUARY 16, 1849.)

#### SECTION.

1. In Jay county — how elected.
2. Auditor to fill vacancies.
3. Assessor to give bond — oath.
4. Duties of.

#### SECTION.

5. Further duties — compensation.
6. To report the number of days served under oath.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the qualified voters of each township in the county

of Jay, shall, at their annual election on the first Monday of April, 1849, and every two years thereafter, elect one township assessor, who shall hold his office two years after the first Monday of June following, and until his successor is elected and qualified.

SEC. 2. Whenever any vacancy shall happen, in the office of township assessor, from death or otherwise in any of the townships of said county, the Auditor of the county aforesaid, shall appoint some suitable person to fill the same, who shall hold his office until the expiration of the term for which his predecessor was elected and until his successor is elected and qualified.

SEC. 3. Said township assessors, before entering upon the duties of their respective offices, shall give bond and security as is now required of county assessors by the laws now in force on that subject and take an oath faithfully to perform all the duties incumbent on them as such officers.

SEC. 4. The township assessors elected under the provisions of this act, shall, during the months of April and May, annually, take an assessment of all the taxable property in their respective townships, in the same manner that county assessors are required to do by the laws now in force on that subject, and make return of the same to the county auditor, on or before the first Monday of June following.

SEC. 5. Said township assessors shall, in all respects, be governed by the laws now in force in this State, in relation to county assessors, so far as the same does not conflict with the provisions of this act, and shall receive one dollar per day for each day engaged in the performance of their duties herein required.

SEC. 6. Each township assessor aforesaid, shall, in making his return herein-before-mentioned, make out a report under oath, of the number of days he was engaged in performing his duties aforesaid.

SEC. 7. This act shall be in force from and after the same is filed in the Clerk's office of said county of Jay.

SEC. 8. The Secretary of State is hereby instructed to forthwith forward a certified copy of this act to the Clerk's office of said county.



## CHAPTER IX.

*AN ACT respecting Attorneys at Law.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. Summary proceedings to be | judgments have been obtained, as where no  
had against Attorneys at law, as well where | judgment has been obtained.

SECTION. 1 *Be it enacted by the General Assembly of the State of Indiana,* That the summary proceedings against attorneys at law, for failing to pay over money and for failing to deliver up property, securities, or things in action authorised by the fifth article of the thirty eighth chapter of the Revised Code of 1843, may be had as well where the agrieved party has obtained a judgment at law against the delinquent, as in cases where no judgment has been obtained.

SEC. 2. This act to be in force from and after its passage and publication in the Indiana State Sentinel.

## CHAPTER X.

*AN ACT in relation to duties of Auditor and Agent of State.*

(APPROVED JANUARY 5, 1849.)

SECTION	SECTION
1. Agent of State—where and what to deposit.	2. Auditor of States duty.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That on the first days of January and July, hereafter or as soon thereafter as practicable, it shall be the duty of the Agent of State, to deposit in the office of the Auditor of State, three copies of the register of bonds surrendered within the preceding six months of the current dividend book, and also a particular detailed statement of each certificate of stock by him issued, showing whether the same be for original or transferred stock, to whom issued, the amount and date and if transferred, the number or numbers of the transfer and the number or numbers of the certificates issued in lieu of the one so transferred.

SEC. 2. It shall be the duty of the Auditor of State, to file such copies in his office, and to enter upon books by him to be kept for that purpose, the disposal made at said agency of each certifi-

cate, as shown by the statement mentioned in the first section of this bill, and to keep in a proper book, a complete register of all the bonds shown to have been surrendered.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER XI.

*AN ACT to amend section 89 of article 7 of chapter 12 of the Revised Statutes of 1843.*

(APPROVED JANUARY 15, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the eighty-ninth section of the seventh article of chapter twelve of the Revised Statutes, be, and the same is hereby amended, that the duties required to be done and performed by the county auditor on the first day of October annually, may be done and performed by him any time between the first and fifteenth day of October.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER XII.

*AN ACT to increase the pay of the Auditor of Hamilton County.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the county commissioners of Hamilton county be, and they are hereby authorized in their discretion, to make an annual allowance to the auditor of said county, not exceeding five hundred dollars, his per centage on the school, and all other trust funds, and contingent fees inclusive.

SEC. 2. This act to be in force and take effect from and after its passage.



## CHAPTER XIII.

*AN ACT fixing the fees of the Auditor of Switzerland County.*

(APPROVED JANUARY 13, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the fees to be allowed the county auditor of Switzerland county, hereafter shall be the fees allowed to county auditors' by the act entitled "An act prescribing the duties of county auditor," approved February 12, 1841, excepting so much thereof as requires a fee of twelve and a half cents for entry and transfer of land for taxation.

SEC. 2. That the act approved February 10, 1843, and all acts and parts of acts coming within or contained [contravening] in the provisions of this act, be, and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER XIV.

*AN ACT authorizing the establishment of the additional Branches of the State Bank of Indiana.*

(APPROVED JANUARY 10, 1849.)

## SECTION

1. For counties of Cass, Miami, Fulton, Pulaski, Carroll, Wabash and Howard.
2. For Fountain, Montgomery, Vermillion, and Warren counties.
3. For Perry, Spencer, Dubois, and Crawford counties.
4. For Fayette, Rush, Franklin, Decatur, and Shelby counties.
5. Capital stock, and how subscribed.
6. How organized, governed and conducted.
7. When to go into operation.
8. Duties of fund commissioners.

## SECTION

9. First instalment State stock, when and by whom paid over.
10. Remainder of stock when payable.
11. When in force, certificate of cashier to be filed and recorded in the Secretary of State's office.
12. For Owen, Morgan, Green, Daviess, and Martin counties.
13. For Switzerland, Ripley, and Ohio counties.
14. Not to be established after the expiration of year 1757.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Directors of the State Bank of Indiana, be, and they are hereby authorized to establish an additional Branch of the said State Bank for the district composed of the counties of Cass, Miami, Fulton, Pulaski, Carroll, Wabash and Howard, at such point

within either of said counties as the Directors shall select, and at such time as they may think the public interest may require.

SEC. 2. The said Directors may also establish an additional Branch of the said State Bank for a district composed of the counties of Fountain, Montgomery, Vermillion and Warren, at such point within either of the said counties as said Directors shall select, and at such time as they may think the public interest may require.

SEC. 3. The said Directors may establish an additional Branch of the said State Bank for a district composed of the counties of Perry, Spencer, Dubois and Crawford, at such points within either of said counties as said Directors shall select, and at such time as they may deem it conducive to the public interest.

SEC. 4. The said Directors may also establish an additional Branch of the State Bank for a district composed of the counties Fayette, Rush, Franklin, Decatur and Shelby, at such point within either of said counties as said Directors shall select, and at such time as they deem it conducive to the public interest.

SEC. 5. The capital stock in each of said Branches shall be one hundred and sixty thousand dollars, of which so much shall be subscribed on the part of the State as the commissioners of the sinking fund shall deem expedient, being not less than sixty thousand dollars, and the remainder by individuals.

SEC. 6. The said Branches shall be severally organized, governed, and conducted in all respects according to the provisions and requirements of the act of the General Assembly, approved twenty-eighth January, eighteen hundred and thirty-four, entitled "An act to establish a State Bank," and the several acts amendatory thereof, except as is otherwise provided by this act, and the said Branches, and each of them, and every officer and person employed in either of said Branches, shall be subject to all the penalties and restrictions imposed by the said act or acts.

SEC. 7. Neither of said Branches shall go into operation till the sum of thirty-thousand dollars in specie shall be paid on the stock subscribed by individuals, and an equal amount on that subscribed by the State.

SEC. 8. The commissioners of the sinking fund, by their president, shall subscribe the State stock on behalf of the State, and they shall set apart and retain the excess of the division on the State's stock in the several Branches, which may remain after each semi-annual payment of interest on the bonds issued for the Bank loan; and they shall also retain and set apart all moneys received by them on Bank stock, mortgages and loans, which said items shall constitute a fund to be invested by the State in the stock of said new Branches.

SEC. 9. When the said commissioners of the sinking fund shall be informed that the said sum of thirty thousand dollars of the stock of individuals has been paid to the cashier of each or either of said new Branches, after the same shall be properly organized, the said commissioners shall pay over an equal sum on account of the



State's stock, if at the time the said commissioners shall have realized that amount; but if said sum shall not be in the hands of said commissioners, the sum shall be paid over as soon as realized; [when-ever] whereupon the Governor shall issue his proclamation authorizing the said Branch or Branches to commence banking.

SEC. 10. The remainder of the stock, over and above the said sum of sixty thousand dollars in each Branch, shall be payable in such instalments, not exceeding one in each year, as the Directors of the State Bank shall require; *Provided, however*, That a failure by the State to pay any such future instalment, by reason of the want of funds from said sources, shall not operate as a forfeiture of any right or privilege that she may have acquired as a stockholder in such Branch. But any such future instalments, or any part thereon, [thereof] may be paid when the said commissioners of the sinking fund may be enabled to make payments on such stock from the sources aforesaid, or from any of the income of the said fund, not otherwise appropriated.

SEC. 11. This act shall be in force as soon as consent thereto shall be given by the President and Directors of the said State Bank, and by the President and Directors of each Branch thereof, in accordance with the one hundred and eighteenth section of said act establishing a State Bank, and a certificate of said consent made by the Cashier of the State Bank shall be filed in the office of the Secretary of State, and there recorded.

SEC. 12. That there be a district composed of the counties of Owen, Green, Morgan, Daviess and Martin, entitled to all the privileges and benefits of the provisions of this act.

SEC. 13. That there shall be a district composed of the counties of Switzerland, Ripley and Ohio, entitled to all the privileges and benefits of the provisions of this act.

SEC. 14. That no Branch shall be established under the provisions of this act by the State Bank, at any time after the expiration of the year eighteen hundred and fifty-one.

## CHAPTER XV.

*AN ACT to facilitate the discharge of mortgages given to the State of Indiana for the payment of Bank stock.*

(APPROVED JANUARY 5, 1849.)

WHEREAS in the organization of the State Bank of Indiana, the State loaned to stockholders thereof, on their bonds and mortgages of

real estate, the means of paying part of their instalments of stock in the Bank: AND WHEREAS, in some such cases stock has been transferred to other persons, who are or may be desirous to pay off the loans which are also a lien upon their stock: *Provided* it can be done with safety, so that the mortgages may remain in the hands of the assignee or assignees and for their use, obligatory against the mortgagor, after such payment thereof to the State: therefore

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for the commissioners of the Sinking Fund to receive payment at any time in whole or in part, of any bonds and mortgages so given to the State of Indiana for loans for means of paying Bank stock, from any such other person or persons holding the stock of the mortgagor by assignment and transfer, and whenever any such mortgages shall be so fully paid, the President of the Board of Commissioners aforesaid shall be authorized to assign and transfer the same, without recourse back on the State, to the person or persons so paying, he or they holding the stock of the mortgagor as aforesaid, and such assignment shall vest in the assignee or assignees all the right and interest in and to such mortgage and the bond thereto appertaining, and such payment by such persons shall not be deemed a satisfaction of such mortgage.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER XVI.

*AN ACT repealing a certain act therein named.*

(APPROVED JANUARY 16, 1849.)

### SECTION.

1. Bills of exceptions may be signed after expiration of the term at which the case is tried, in 8th and 11th circuits and Hancock county.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled, "an act to regulate the signing of bills of exceptions in the circuit courts," approved 16th February, 1848, be and the same is hereby repealed, so far as the same applies to and affects the eighth and eleventh judicial circuits, and also, the county of Hancock in the fifth judicial circuit, and all laws and parts of laws superseded or repealed by said act, be and the same are hereby revived and declared to be in full force and effect in said circuits and county.



## CHAPTER XVII.

*AN ACT allowing grace on all bills of exchange.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That three days' grace be and the same is hereby allowed on all bills of exchange payable in this State, as well sight as time bills.*

Sec. 2. This act to be in force from and after its passage.

## CHAPTER XVIII.

*AN ACT making the education of the Blind in Indiana free.*

(APPROVED DEC. 5, 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That hereafter all proper persons shall be admitted free of charge, to receive instruction in the Indiana Institute for the Blind in this State: Provided, That the Trustees of the Institute shall be the judges, under the laws now in force, as to who are proper persons to be instructed in said institute.*

Sec. 2. That this act shall take effect and be in force from and after its passage.

## CHAPTER XIX.

*AN ACT for the relief of certain laborers on the Central Canal, for work done in 1847 and 1848.*

(APPROVED JANUARY 13, 1849.)

SECTION  
1. Duties of Auditor, Treasurer, and Superintendent.

SECTION  
2. Amount to be refunded from water rents.

WHEREAS, It is represented to the General Assembly by the Superintendent of the Northern end of the Central Canal, that the State is indebted to Tim. Griffin, William Conner, James Connell, Pat. Griffin, Pat. Gudge, Henry Spilton, Michael Dunn, John Hughes, John Griffin, L. Kennedy, David O'Herren, Joseph Butch, Francis Butch, John Michael, Thomas Kennedy, and one other, for work and labor done and performed in the repair of said Canal in the years 1847 and '48, which work was done at the instance of the State authorities, for remedy thereof, therefore

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the Auditor of State shall issue to and deliver to Basil Brown, as Superintendent of said canal, a warrant on the Treasurer of State for the sum of nine hundred and thirty-seven dollars and fifty cents, and said Treasurer of State shall pay said sum over to said Brown, as such superintendent of said canal, and it shall be the duty of said Brown, immediately on the receipt of said money, to pay to each of the aforesaid persons the amount due to each, and shall take the receipt of such persons, and file said receipts with the Auditor of State, and shall be allowed as a credit for the amounts so paid over to each of the persons aforesaid, and shall report to the said Auditor the amount paid to each person, and said Auditor shall, in his next annual report, report the act of said superintendent as reported to him.*

Sec. 2. *Be it further enacted, That the sum of money provided to be drawn out of the Treasury shall be refunded to the State Treasury from the first money paid in for water rents on said canal.*

Sec. 3. This act to take effect and be in force from and after its passage.



## CHAPTER XX.

*AN ACT supplementary to an act entitled "An act to amend an act entitled an act for the relief of purchasers of Canal land;" approved January 19, 1846, approved December 28, 1846.*

## SECTION

1. Forfeiture of land, not to exempt from liability for taxes.
2. Whilst unsold or unredeemed to be placed on proper duplicate and charged with arrearages, and accruing taxes, &c.
3. When sold to be subject to lien for taxes, and if sold for taxes, may be redeemed, how.
4. When forfeited, tax sales invalid.
5. Purchasers at tax sales, may pay original

## SECTION

- purchase and interest, and how—certificate when deposited—Proviso, no payment more or less than the amount next thereafter due—how redeemed—interest and penalty—further Proviso, tax purchaser failing to pay original purchase and interest—how redeemed—interest and penalty.
6. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That no forfeiture of any canal lands that has heretofore, or may hereafter, take place for non-payment of either principal or interest of the original purchase of the same, or of any instalment thereof as the same shall have become due, shall be continued [construed] to release or exempt the lands so forfeited from any liability for taxes, that may have been legally chargeable against and upon the same, but the same shall remain liable therefor, together with all interest and penalties thereon, the same as though they had never become forfeited, subject, however, to any disposition thereof by the General Assembly.

SEC. 2. That while such lands shall remain unsold, and unredeemed under the provisions of the act to which this is supplementary, they shall be continued upon the proper duplicate of the county wherein such lands lie, and be charged with all arrearages, and shall be annually assessed and charged with all accruing taxes, penalties, and interest, as other lands.

SEC. 3. That upon any sale of any said canal [lands] at public sale or private entry thereof, under the provisions of the above entitled act, the purchasers shall acquire the same, subject to said lien for taxes, and in case the tracts or tract so purchased shall have been sold for taxes due thereon, the same may be redeemed as other lands sold for taxes, by paying into the proper county treasury the amount for which tracts or any part thereof may have been sold at such tax sale, together with six per cent. interest thereon from date of sale, with a penalty of twelve per cent. on [the] amount paid at the sale of taxes.

SEC. 4. That after any of said canal lands shall have become forfeited for non-payment of the original purchase money, or the interest thereon, or any instalment thereof as the same becomes due, the said lands so forfeited shall not be sold for taxes, and any sale thereof contrary to this provision shall be invalid, and the pur-

chaser thereof shall be entitled to a return of the money paid as in other cases of invalid sales.

SEC. 5. That any person or persons purchasing any of said canal lands at the sale thereof for taxes, prior to the forfeiture of the same under the above entitled act, or any person or persons being the legal assignee of the certificate of purchase issued at such sale for taxes, may lawfully make any payment of either principal of said original purchase, or any instalment thereof, or any interest that may have become due thereon, to prevent a forfeiture thereof, and to receive the proper voucher or final certificate therefor, from the proper canal land officer, as the case may be, as the original purchaser or his assignee may or could do, which said voucher or certificate the holder shall cause to be forthwith recorded in the record of sales for delinquent taxes: *Provided, however,* That no such payment of interest or principal shall or may be made of more or less than the amount that shall next thereafter become due, on any tract, the whole or any part of which shall have been sold for taxes, and the purchaser for taxes so paying any instalment of said original purchase money, or any interest thereon, shall be entitled to receive of the person redeeming said lands so sold for taxes, the amount of principal or interest thus paid with six per cent. interest thereon from the date of payment, and a penalty of twenty-five per cent. upon the amount so paid, and until said amount shall have been deposited in the proper county treasury for the use of the purchaser at such sale for taxes, no certificate of redemption shall be issued for said land, and in this case if the land so sold for taxes be not redeemed within two years from the date of the final payment thereon, the said purchaser shall be entitled to receive a patent for the tract so paid out: *And Provided further,* That in case the said purchaser for taxes, shall not pay the interest or principal of said original purchase as the same becomes due upon the entire tract, the whole or any part of which he or they shall have so purchased for taxes, then and in that case the said purchaser for taxes shall only be entitled upon the redemption thereof by the original purchaser or his assignees, or upon the sale thereof according to the provisions of the above entitled act to the amount for which the same was sold for taxes, together with six per cent. interest thereon from the date of said sale for taxes, and a penalty of twelve per cent. on the amount paid to be redeemable, as specified in section three, at any time within two years from the date of the redemption or sale thereof under the above entitled act.

SEC. 6. All acts and parts of acts conflicting with the provisions of this act, be, and the same are hereby repealed.

SEC. 7. This act to be in force from and after its passage.

[The foregoing bill was presented to me on the 16th day of February, 1848, and not having returned it to the Senate with my objections, nor having approved it within the first three days of the present session of the General Assembly, for want of time for the



necessary research, the same has become a law by the Constitution.

JAMES WHITCOMB.]

December 7, 1848.

## CHAPTER XXI.

### *AN ACT amendatory of the laws relating to the practice in chancery.*

#### SECTION

1. Any answer or answers filed or made to be filed in any former suit, may be filed and used in any subsequent suit founded on same cause or causes, and between the same parties.

#### SECTION

2. Depositions taken before execution of subpoena or filing answer—when and how admitted and used.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in any suit in chancery in which a discontinuance, dismissal, or other disposition of such suit which shall have been heretofore, or hereafter may be suffered or had, and where a new or subsequent suit shall have been heretofore, or may hereafter be brought for the same cause or causes, in whole or in part, any answer or answers filed in any such former suit, or made for the purpose of being filed and used in such former suit, but not filed therein, may be filed, and shall be used in such new or subsequent suit between the same, or a portion of the same parties, or their assignees, or persons claiming under them, so far as the same is applicable.

SEC. 2. That depositions heretofore or hereafter taken for any of the causes specified in, and according to any of the provisions of article 10, chapter 40, of the revised statutes of 1843, preceding section 292 thereof in any suit in chancery, and which shall have been taken before execution of subpoena or filing of answer, shall be admitted and used by either party.

SEC. 3. This act shall be in force from and after its passage.

[The above bill not having been presented to me until within five days before the adjournment of the General Assembly at its last session, and not since having been returned or approved, the same has become a law, December 7th, 1848.]

JAMES WHITCOMB.]

## CHAPTER XXII.

### *AN ACT relative to the execution of decrees in Chancery.*

(APPROVED JANUARY 16, 1849.)

#### SECTION

1. Whenever real estate may be decreed to be sold, the Court may appoint commissioner or commissioners to execute such decree—proviso—bond and security be given, &c.—further proviso—sheriff or attorney at law may be commissioner or commissioners.  
2. Lands lying in different counties how sold.

#### SECTION

3. Duties of commissioners, and compensation.  
4. In decrees heretofore rendered the court may appoint commissioners—their duties.  
5. Vacancy in office of commissioner—how filled—powers and restrictions.  
6. Sales or proceedings of commissioners—to pass title of lands sold to purchaser.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever any decree may hereafter be rendered in any of the courts of this State, whereby any real estate or any interest, share or claim therein shall be ordered to be sold, the court rendering such decree may appoint one or more commissioner or commissioners to carry such decree into execution; *Provided,* That such commissioner or commissioners shall give bond and security to the approval of the proper court, when required so to do, conditioned for the faithful discharge of his or their duties; which bond, when given, shall be made payable to the State of Indiana, and may be put in suit by any person aggrieved by any breach in the condition thereof; *And provided further,* That nothing herein contained shall prevent said court from appointing any sheriff or attorney at law such commissioner or commissioners.

SEC. 2. When the lands embraced in such decree shall lie in different counties, it shall be lawful for such commissioner or commissioners to make sales of the different lands in the several counties in which the same shall respectively be situated; *Provided, however,* That when a portion of an entire tract shall extend beyond the boundary line of the county in which the main tract shall be situate, such commissioner or commissioners may sell such entire tract at the court house of the county where the larger part of such tract may be situated.

SEC. 3. Such commissioner or commissioners, in making such sales, or in making returns, or in discharging any other part of their duties, shall be governed in all respects by the laws in force regulating sale of real estate upon execution by sheriffs, except where the provisions of the decree may require a different course of proceedings; and upon the final return of such commissioner or commissioners the court shall allow them a reasonable compensation for their services, to be taxed with the other costs in the case, which shall, however, not in any case exceed the amount of fees allowed to sheriffs for similar services.



SEC. 4. That in all decrees heretofore rendered in any of the courts in this State for the sale of real estate, as contemplated in the first section of this act, it shall be lawful for such court to appoint a commissioner or commissioners as herein provided; or in case such commissioner or commissioners have heretofore been appointed, it shall be lawful for such commissioner or commissioners to proceed under such appointment or requisition to make sale, return, and other necessary proceedings, under the provisions and requirements of this act, so far as the same may be applicable.

SEC. 5. Whenever a vacancy has happened, or may hereafter happen, by death or otherwise, in the office of commissioner aforesaid, it shall be the duty of the proper court, in term, or of either of the judges thereof in vacation, upon application of the complainant or his solicitor, to fill such vacancy by appointment, and the commissioner or commissioners thus appointed shall have the same powers, and be subject to the same restrictions as though originally appointed by the court, and all his proceedings subsequent to the death of his predecessors shall be conducted in the same manner as though no vacancy had occurred.

SEC. 6. All sales or proceedings of any of the commissioners under the provisions of this act shall be effectual to pass the title of the lands so sold to the purchaser or purchasers thereof, respectively.

SEC. 7. This act to be in force from and after its passage.

### CHAPTER XXIII.

*AN ACT prescribing the number of pounds of Clover Seed to be considered a bushel in this State.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That hereafter, in this State, sixty pounds of clover seed shall be a standard bushel of that article, and shall be given and taken for a bushel in all contracts for that article hereafter made.*

SEC. 2. This act to take effect from and after its publication.

### CHAPTER XXIV.

*AN ACT to change the mode of electing Grand Jurors in the county of Orange.*

(APPROVED JANUARY 12, 1849.)

SECTION	SECTION
1. Duty of County Board in selecting Jurors.	2. Duty of Sheriff.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the Board doing county business for Orange county shall, at their June term in each year, select from the freeholders of said county the number required by law of good, discreet men, to serve as grand jurors for each term of the circuit [court] of said county, one of which jurors shall be from each of the townships in said county, except Paoli and Orleans townships, from each of which there shall be selected two, and in selecting said jurors the county board shall be governed by the laws now in force, except when this act contravenes, and the drawing shall be continued until the proper jurors, according to the provisions of this act, be drawn.*

SEC. 2. If at any term of said court any of the regular panel fail to attend, it shall be the duty of the sheriff in selecting jurors to fill the panel, to select the same from the townships where such failure happens.

SEC. 3. This act shall take effect and be in force from and after its passage.

### CHAPTER XXV.

*AN ACT relative to the Board of Commissioners of Boone county.*

(APPROVED JANUARY 5, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the Board of County Commissioners of the county of Boone may sit six days, at any session of said board, if the business thereof shall require it.*

SEC. 2. This act shall take effect from and after its publication.



## CHAPTER XXVI.

*AN ACT changing the mode of doing county business in the county of Orange.*

(APPROVED JANUARY 16, 1849.)

## SECTION

1. The county divided into districts.
2. County Commissioners, when and how elected.

## SECTION

3. Such Commissioners only authorized board to do county business—repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the county of Orange be, and the same is hereby, divided into three districts, as follows: 1st district, Jackson, Greenfield, and South-east; 2d district, Stamper's Creek, Paoli, and French Creek; 3d district, North-west, Orleans, and North-east townships.*

SEC. 2. There shall be, on the first Monday in August, 1849, elected in said county of Orange three county commissioners, one of whom shall reside in each of said districts, and shall hold their offices as provided in the general laws of this State; and the authorities, powers, duties, and elections of county commissioners in the county of Orange, on and after the first Monday in August, 1849, shall, in all things, be governed by the General Laws of the State.

SEC. 3. Said board of commissioners authorized by this act shall be the only board authorized to do county business in said county of Orange after the said first Monday in August, 1849; and all acts and parts of acts coming within the purview of this act be, and the same are hereby, repealed.

SEC. 4. This act to take effect and be in force from and after its passage.

## CHAPTER XXVII.

*AN ACT to provide for the selection of Petit Jurors in the county of Jackson.*

(ADOPTED JANUARY 5, 1849.)

## SECTION

1. Duty of County Commissions and Clerk in relation to petit jurors.

## SECTION

2. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That it shall be the duty hereafter of the board of county commissioners of Jackson county, Indiana, to select a petit jury for the circuit court in said county, in pursuance of the provisions of chapter fifty of the Revised Statutes of 1843, and of the acts amendatory thereto; and of the clerk of the said circuit court to issue a venire for the said jurors, as provided in said chapter and said amendatory acts, commanding the said jurors to appear at the proper term of the said court to discharge their duties as such jurors during said term.*

SEC. 2. All acts or parts of acts coming within the purview of this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER XXVIII.

*AN ACT to change the mode of doing county business in the county of Warrick, from justices of the peace to county commissioners.*

(APPROVED JANUARY 5, 1849.)

## SECTION

1. The county how and when divided into districts.
2. Commissioners how and when elected.
3. Terms of service.
4. To be body corporate and politic, &c.

## SECTION

5. Compensation, time and place of holding courts.
6. Repealing clause—proviso, that the boards of justices transact the county business until said commissioners are elected and qualified.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the present board of justices of the peace, doing county business in the county of Warrick, be and they are hereby authorized and required at their June term, 1849, to divide the county by*



civil township lines into three districts, to be numbered one, two and three; subject however to alteration every three years, but not oftener.

SEC. 2. Three commissioners shall be elected by the qualified voters of said county at the next August election, for the purpose of transacting the business of said county, one of whom shall be chosen from each of said districts by the vote of the whole country. Said election for such commissioners shall be governed and conducted in all respects as prescribed by the general laws of the State now in force relative to such election.

SEC. 3. The person having the highest number of votes shall continue in office three years, the person having the next highest number of votes for two years, and the person having the next highest number of votes for one year; and, annually thereafter one commissioner shall be elected, who shall continue in office for three years, and until his successor is elected and qualified. If two or more persons at such first election shall have the same number of votes, their term of service shall be determined by lot, under the direction of the board of canvassers returning said election.

SEC. 4. Said commissioners shall be elected, commissioned and qualified, in the way and manner prescribed by the general laws of the State in relation thereto. They shall be considered a body corporate and politic, by the name and style of "the board of commissioners in the county of Warrick," and as such shall possess and exercise all the powers, and be subject to all the liabilities appertaining to the duties of their said office, that are contained in the Revised Statutes of 1843, and the Statutes amendatory thereof.

SEC. 5. That the compensation of said county commissioners, and their successors in office, and the times and places of holding county courts in said county of Warrick, shall be, in all respects, in accordance with the general laws of the State in relation thereto.

SEC. 6. This act shall take effect and be in force from and after its passage, and all laws and parts of law contravening the provisions of this act be and the same are hereby repealed. Provided, nevertheless, that the present board of justices of the peace in and for said county, shall continue to transact the county business, as at present, until the commissioners as above set forth are elected and qualified.

## CHAPTER XXIX.

## AN ACT to regulate the mode of doing county business in the county of Putnam.

(APPROVED JANUARY 15, 1849.)

## SECTION

1. Commissioners—when and how elected—term of service.
2. Election—how conducted, and proceedings thereon. Constituted a Board of Commissioners—how governed.
3. Such commissioners failing or neglecting

## SECTION

- to attend regular sessions, fined not exceeding \$3.
4. Quorum.
5. Compensation—provides that they receive pay for not more than three days at one term.
6. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the qualified voters of the several townships of the county of Putnam shall, at the annual township election on the first Monday in April in each year, elect one of the justices of the peace from each township in said county [to do the county business of said county] for one year from and after said election, and until his successor shall be elected and qualified.

SEC. 2. The said election shall be conducted in all respects as the elections of other township officers are conducted; and the inspectors and judges of said election shall make return thereof by one of their number to the Auditor of said county, who shall immediately issue a certificate of election to the justice of the peace having received the highest number of votes in each township, and shall deliver the same to the sheriff of said county, who shall deliver said certificates to the person entitled thereto, within twenty days thereafter; and the persons so elected shall constitute the board of commissioners of said county, and shall be governed in all other respects by the laws which are or may be in force regulating the mode of doing county business in said county.

SEC. 3. If any justice of the peace, so elected under the provisions of this act, shall wilfully fail or refuse to attend any of the regular sessions of said board, he may be considered as in contempt of the authority of said board, and may, for each default, be fined by them in any sum not exceeding three dollars, at their discretion.

SEC. 4. Any five of said justices shall be sufficient to form a quorum to do business.

SEC. 5. In addition to the exemptions now allowed by law to justices of the peace, each member of said board shall be allowed the sum of one dollar for each day he may [be] necessarily engaged in the business of said board: *Provided,* That members of said board shall not receive pay for more than three days at any one term.

SEC. 6. All laws contravening the provisions of this act are hereby repealed so far as the same relate to the county of Putnam; and this act shall take effect and be in force from and after the 31st day of March, 1849.



## CHAPTER XXX.

*AN ACT defining the duty of the board of commissioners of the county of Monroe.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners of the county of Monroe be and they are hereby authorized to vacate streets and alleys lying between seminary out-lots, comprised in the east, west, and south sections of seminary lands adjoining the town of Bloomington: *Provided, however,* That the said board of commissioners shall be governed, in all respects, (as far as may not be inconsistent herewith,) by the second article of the twenty-fourth chapter of the Revised Laws of 1843.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER XXXI.

*An act to extend the time of the sessions of the March and June terms of the Board of County Commissioners of Knox county.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter the board of commissioners of Knox county may, at their March and June sessions of every year, continue in session for the period of ten days, if business shall require it.

SEC. 2. *Be it further enacted,* That this act take effect and be in force from and after its passage.

## CHAPTER XXXII.

*AN ACT in relation to official misconduct of county commissioners.*

(APPROVED JANUARY 15, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the thirty-sixth section of chapter seven of the Revised Statutes of 1843 be so amended, that hereafter it shall be lawful for any court having jurisdiction of an offence under said section, to assess a fine not exceeding five hundred dollars, for such offence.

SEC. 2. All acts inconsistent herewith are hereby repealed; and this act shall be in force from and after its passage.

## CHAPTER XXXIII.

*AN ACT to prevent the consolidation of indictments in certain cases in Hamilton county.*

(APPROVED JANUARY 15, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever hereafter any person shall be indicted for the sale of ardent spirits in the county of Hamilton, it shall not be lawful for the circuit court of said county to consolidate any such indictments, either before or after trial; but the said circuit court shall assess and fix a fine and costs upon each and every such indictment, if the defendant be found guilty.

SEC. 2. This act shall take effect and be in force from and after its passage, and shall be considered as a public act.



## CHAPTER XXXIV.

*AN ACT to provide for taking the sense of the qualified voters of the State on the calling of a Convention to alter, amend, or revise the constitution of this State.*

(APPROVED JANUARY 15, 1849.)

## SECTION.

1. Inspectors and Judges of elections, when to open a poll in which to enter the votes for and against Convention.
2. Who may vote.
3. Duty of Inspectors—answers to be recorded—Clerks of county Boards to furnish poll-books.
4. Inspector and Judges to certify the num-

## SECTION.

- ber of votes to Clerks of circuit court—and how.
5. Clerks of circuit courts to certify, how and to whom—penalties for neglect of duty Secretary of State to lay returns before the Legislature on the 2d Monday of December.
6. Sheriffs to give six weeks notice and how.

SECTION. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the Inspectors and Judges of elections in the several townships within each county in this State at the annual election in August next, to open a poll in which shall be entered all the votes given for or against the calling of a convention to alter, revise, or amend the constitution of this State.

Sec. 2. Every qualified voter in this State, may, if he choose, at the annual election in August next, vote for or against the calling of a convention, for the purpose mentioned in the first section of this act.

Sec. 3. The Inspectors of elections at the several places of voting, shall propose to each voter presenting a ballot the question "are you in favor of a convention to amend the constitution," and those who are in favor of such convention shall answer in the affirmative, and those who are against such convention shall answer in the negative, which answers shall be duly recorded by the Clerks of such election, and the Clerks of the Boards doing county business shall furnish a poll-book with proper columns for that purpose.

Sec. 4. It is hereby made the duty of the Inspectors and Judges of elections to certify the number of votes given for or against a convention to the Clerks of the circuit courts respectively, in the same way and manner, and under the same restrictions and penalties that votes for State and county officers are given and certified.

Sec. 5. It shall be the duty of the Clerks of the circuit courts throughout the State to certify and make returns of all the votes given for and against a convention, and also all the votes that were given at such election, to the Secretary of State in the same way and manner that votes for Governor and Lieutenant Governor are required by law to be certified and they shall be subject to the same penalties for a neglect of duty. It shall be the duty of the

Secretary of State to lay before the next General Assembly on the second Monday of December next all the returns by him received, pursuant to the provisions of this act.

Sec. 6. It shall be the duty of the several Sheriffs of this State to give six weeks' notice in a newspaper, if one is published in his county; if not, by written notices in each township of his county, that there will be a poll opened for the purposes specified in this act.

## CHAPTER XXXV.

*AN ACT to amend section 336, of chapter 40, of the Revised Code of 1843.*

(APPROVED JANUARY 15, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section 336, of chapter 40, of the Revised Code of 1843, be and the same is hereby amended by adding to said section, "Provided, that the forgoing provisions of this section shall not apply to judgments rendered before justices of the peace, nor to any judgment rendered on appeal from the judgment of a justice of the peace."



## CHAPTER XXXVI.

## AN ACT declaratory of the meaning of the Thirtieth (30) Section of Chapter Thirty-Seven (37) of the Revised Statutes of 1843.

(APPROVED DECEMBER 5, 1848.)

## SECTION

1. Any plaintiff in error, under disability, may bring writ of error within five years after the removal of said disability, without reference to Statute of Limitations as to other plaintiffs in same cause.
2. Where part of the plaintiffs only are barred, the writ may be brought in the name

## SECTION

of all—defendants not to plead such joinder in abatement, but may plead the Statute of Limitations in bar—on trial of the issue the plaintiffs barred, to be struck from the record—the reversal or approval of decree or judgment to effect the plaintiffs before the court only.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the thirtieth (30th) section of the thirty-seventh (37th) chapter of the Revised Statutes of 1843, which is as follows, viz: No writ of error shall be brought after the expiration of five years from the rendition of the judgment or decree complained of, unless the plaintiff shall have been, at the time of rendering such judgment or decree, an infant, a married woman, *non compos mentis*, imprisoned, or out of the United States on public business, in any of which cases the five years shall be computed from the time such disability shall cease; meant and was intended to be so construed that each and every plaintiff in error who should be at the time of the rendition of the judgment or decree under any of the disabilities therein named, shall have a right to bring his, her, or their writ of error at any time within five years after the removal of the disability, without reference to the time the Statute of Limitations may have run, as to other plaintiff or plaintiffs in the same course [cause.]

SEC. 2. That in cases where the Statute of Limitations bars a part of the plaintiffs only, the writ of error may be brought in the name of all the plaintiffs, and the defendant or defendants shall not plead such joinder of the plaintiff in abatement of the writ, but may plead the Statute of Limitations in bar against such plaintiffs as are barred by the statute, and the issue when made up shall be tried by the Supreme Court, or in such manner and place as the court shall direct, and the names of such of the plaintiffs as are found to be barred shall be struck from the record, and the cause shall proceed in the name of the other plaintiffs only, and the Supreme Court shall proceed to reverse or approve the judgment or decree only as to such plaintiffs as are before the court, and the reversal of the judgment or decree as to the parties before the court shall not affect the same as to the parties barred by the Statute of Limitations.

SEC. 3. That this act shall be in force from and after its passage.

## CHAPTER XXXVII.

## AN ACT to amend act, entitled "An act regulating the practice of law in the Allen circuit court, and for other purposes," approved Jan. 15, 1845.

(APPROVED JANUARY 5, 1849.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of the said act as requires the attendance of a grand and petit jury at the July term of said court be, and the same is hereby, repealed, and hereafter the business of said July term of said court shall be confined to the taking of rules, hearing motions, deciding issues of law, disposing of Chancery cases, and the trial of such common law and criminal cases as may by the agreement of parties be submitted to the court without the intervention of a jury.

SEC. 2. This act to take effect and be in force from and after its passage, and the Secretary of State is hereby required to forward a copy of this act to the clerk of the Allen circuit court.

## CHAPTER XXXVIII.

## AN ACT to fix the time of holding courts in the First Judicial Circuit and the Probate Court of Tippecanoe county.

(APPROVED JANUARY 2, 1849.)

## SECTION

1. Courts, when held—length of terms.
2. Grand jurors, when to attend in Tippecanoe county.
3. When Probate Courts in Tippecanoe co. held—length of terms.

## SECTION

4. Writs, &c., when returnable—suits, &c., how acted upon.
5. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several circuit courts of the first judicial circuit of said State shall hereafter be held as follows, to-wit: In the county of Tippecanoe on the third Mondays in February and August in each year; in the county of Benton on the Monday succeeding the courts in the county of Tippecanoe; in the county of Warren on the Thursday succeeding the courts in the county of Benton; in



the county of Fountain on the Monday succeeding the courts in the county of Warren; in the county of Montgomery on the Monday succeeding the courts in the county of Fountain; and in the county of Clinton on the Monday succeeding the courts in the county of Montgomery. The said courts, if the business thereof require it, shall sit, in the counties of Tippecanoe, Fountain, and Montgomery, twelve days each; in the county of Benton, three days; in the county of Clinton, six days; and in the county of Warren, nine days.

SEC. 2. In the county of Tippecanoe the grand jury, after the passage of this act, shall be summoned to attend said circuit court on the Monday of the second week of each term.

SEC. 3. The probate court in said county of Tippecanoe shall hereafter sit as follows, to-wit: On the first Mondays of February, May, August, and November in each and every year, and may sit twelve days at each term, if the business thereof require it.

SEC. 4. All writs or notices that may have been issued or served before the taking effect of this act, in relation to any matters now pending, or to be pending in any of said circuit courts, and said probate court, are hereby made returnable to the first day of the next term of said court, as fixed by this act, and all suits, recognizances, motions, rules, and other proceedings, which, at the time of taking effect of this act, shall be pending in any of said courts, shall be acted upon therein in the same manner as if this act had been in force at the time they were commenced, taken, or instituted.

SEC. 5. All laws or parts of laws contravening the provisions of this act be, and the same are hereby repealed.

SEC. 6. This act to take effect and be in force from and after its passage; and it is hereby made the duty of the Secretary of State to forward, immediately, certified copies of this act to the clerks of the several circuit courts aforesaid.

## CHAPTER XXXIX.

## AN ACT to change the time of holding Courts in the Eighth Judicial Circuit.

(APPROVED JANUARY 15, 1849.)

## SECTION

1. Fixing the time of holding courts in the several counties.
2. Number of days required to sit.

## SECTION

3. Courts and parties bound to notice this act.
4. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts in the eighth judicial circuit in this State, shall hereafter be holden as follows, to-wit: commencing in the county of Cass on the second Mondays in February and August in each year; in the county of Miami on the Mondays succeeding the terms in the county of Cass; in the county of Wabash on the Mondays succeeding the terms in the county of Miami; in the county of Fulton on the Mondays succeeding the terms in the county of Wabash; in the county of Pulaski on the Mondays succeeding the terms in the county of Fulton; in the county of Jasper on the Mondays succeeding the terms in the county of Pulaski; in the county of White on the Mondays succeeding the terms in the county of Jasper; in the county of Carroll on the Mondays succeeding the terms in the county of White; in the county of Howard on the Mondays succeeding the terms in the county of Carroll.

SEC. 2. The courts in the county of Cass shall sit three weeks at each term thereof, if the business thereof require it. The courts in the counties of Wabash, Miami, and Carroll, shall sit two weeks each at each term thereof, if the business thereof require it. The courts in the counties of Fulton, Pulaski, White, Jasper, and Howard, shall sit one week each at each term thereof, if the business thereof require it.

SEC. 3. All parties in court in said circuit, and all witnesses and other persons concerned shall take notice of this act, and [all] writs, processes, and notices, which may have been issued or served before the taking effect of this act, in relation to matters now pending or to be pending in any circuit court in said circuit, shall be returnable to the first day of the first term of said courts, as fixed by this act; and all suits, recognizances, motions, rules, and other proceedings, which at the time of the taking effect of this act, shall be pending in any of said courts, shall be acted upon therein in the same manner, as if this act had been in force at the time they were commenced, taken, issued, or instituted.

SEC. 4. All acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.



SEC. 5. This act to take effect and be in force from and after its passage, and it is hereby made the duty of the Secretary of State to forward to the clerk of each of the circuit courts in said circuit, a certified copy of this act, without delay.

## CHAPTER XL.

*AN ACT fixing the time of holding the several Circuit Courts in the eleventh Judicial Circuit.*

(APPROVED JANUARY 13, 1849.)

SECTION 1. Time of holding courts—length of term—spring term 1849, not affected by this act.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several circuit courts in the counties composing the eleventh judicial circuit, be hereafter held annually at the times following, to-wit: in the county of Randolph, on the second Mondays preceding the first Mondays of March and September; in the county of Delaware, on the first Mondays of March and September; in the county of Madison, on the third Mondays of March and September; in the county of Tipton, on the third Wednesdays succeeding the commencement of the courts in the county of Madison; in the county of Grant, on the Mondays succeeding the commencement of the courts in the county of Tipton; in the county of Jay, on the second Mondays succeeding the commencement of the courts in the county of Grant; and in the county of Blackford, on the Mondays succeeding the commencement of the courts in the county of Jay. The said circuits in the counties of Randolph, Delaware, Madison, and Grant, shall each sit two weeks, if the business thereof require it; and the said courts in the counties of Jay and Blackford shall each sit six days, if the business thereof shall require it; and the said court in the county of Tipton shall sit four days, if the business thereof shall require it; *Provided, however*, that the spring term of said courts in the year 1849 shall not be affected by this act, but shall be held at the times and in the manner now prescribed by law.

## CHAPTER XLI.

*AN ACT to alter the time of holding Circuit Courts in Owen, Morgan, and Brown Counties, in the Tenth Judicial Circuit.*

(APPROVED JANUARY 15, 1849.)

SECTION	SECTION
1. Time of holding courts, and how long.	2. Section of act adopted.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts of the tenth judicial circuit shall be holden as follows, to-wit:—In the county of Owen on the first Monday of March and third Monday of August in each year, to be holden for one week; in the county of Morgan, on the Monday succeeding the terms of the county of Owen, to be holden for eight days; in the county of Monroe, on the Thursday succeeding the terms of the county of Morgan, to be holden for nine days; in the county of Brown, on the Monday succeeding the terms in the county of Monroe, for one week, and in the counties of Green, Daviess, Martin and Lawrence, as is now fixed in the act to which this is an amendment.

SEC. 2. The second section of the act to which this is an amendment, shall apply to this act and have the same effect as if it was made a part of this act.

SEC. 3. This act to take effect and be in force from and after the filing a certified copy of this act in the several counties affected by this act; and it is hereby made the duty of the Secretary of State to forward a certified copy of this act to the clerks' offices of counties of Owen, Morgan, Brown and Monroe.

## CHAPTER XLII.

*AN ACT to change the time of holding Circuit Courts in the Counties of Jennings and Bartholomew.*

(APPROVED JANUARY 15, 1849.)

SECTION	SECTION
1. Time holding spring term.	3. Suits acted upon, and disposed of.
2. Writs, &c, when returnable.	4. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter the spring term of the circuit in the county



of Jennings, shall commence on the second Monday in April, and shall sit until the commencement of the circuit court in the county of Bartholomew, if the business thereof require it. In the county of Bartholomew the spring term shall commence on the third Monday in April, and shall sit until the commencement of the circuit court in the county of Switzerland as now fixed by law, if the business thereof require it.

SEC. 2. That all writs, subpoenas, venires, rules, orders of court, recognizances, publications, and process whatsoever, which may have issued from either circuit court in said counties since the last session thereof, or which may hereafter issue previous to the taking effect of this act, shall be deemed and taken to be and are hereby made returnable to the first day of the first term of each of the courts respectively to be holden by virtue of this act.

SEC. 3. And all suits, actions, and other proceedings now pending or which hereafter may be pending in said courts, shall be taken up and acted upon at the times fixed for the holding thereof, and be disposed of in the same manner as if no alternation had been made of the times for the sittings of said courts.

SEC. 4. That all laws contravening the provision of this act be and are hereby repealed.

SEC. 5. That this act take effect and be in force from and after its passage, and shall immediately be published in the State Sentinel and Indiana Journal.

### CHAPTER XLIII.

*AN ACT to reduce the expenses of the Circuit Courts in the Counties of Greene and Brown, and for other purposes.*

(APPROVED JANUARY 16, 1849.)

#### SECTION

1. Number of grand jurors, and how elected.
2. How long grand jury may sit

#### SECTION

3. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the grand jury in and for said counties shall consist of thirteen jurors only, to be selected in the same manner as now required by law.

SEC. 2. That said grand jury shall sit but three days at each term of the circuit court, unless their foreman shall make oath that the business before said grand jury requires that they shall sit a longer time, and upon the making of such oath the court shall make

an order that said grand jury may sit a longer time, not however to exceed two days.

SEC. 3. All laws and parts of laws conflicting with this act are hereby repealed, so far as the same relate to the aforesaid counties.

### CHAPTER XLIV.

*AN ACT fixing the time of holding the Courts in Porter and Laporte counties.*

[APPROVED DECEMBER 30, 1848.]

#### SECTION

1. Time of holding courts and length of term.
2. Writs &c., when returnable—suits &c., how acted on.

#### SECTION

3. When and how long in force.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Circuit Courts within and for the counties of Porter and Laporte shall be commenced and holden for the year 1849, as follows: In the county of Porter on the first Mondays of March and September, and in the county of Laporte on the third Mondays of March and September. Said court shall sit in each of said counties two weeks, if the business shall require such time.

SEC. 2. All suits, processes, and notices, which may have been issued or served before the taking effect of this act in relation to matters now pending or to be pending in any of said courts are hereby made returnable to the first day of the next term of said Court, as fixed by this act, and all suits, recognizances, motions, rules, and other proceedings which at the time of the taking effect of this act shall be pending in any of said courts shall be acted upon therein in the same manner as if this act had been in force at the time they were issued, commenced, taken, or instituted.

SEC. 3. This act shall take effect and be in force from and after the fifteenth day of January next, and it is hereby made the duty of the Secretary of State, to immediately forward a certified copy thereof to each of the clerks of said courts, provided this act shall only affect the times of commencing and holding said courts in the year eighteen hundred and forty-nine, after which time the same shall be commenced and holden according to the provisions of the act entitled, "an act fixing the time of holding the courts in the ninth Judicial Circuit," approved 19th January, 1846.



## CHAPTER XLV.

## AN ACT creating the Marion Court of Common Pleas.

(APPROVED JANUARY 4, 1849.)

## SECTION

1. Name and style of court.
2. The Judge—qualifications of, &c.—vacancy how filled.
3. Compensation.
4. Clerk—duties, fees &c., of.
5. Sheriff's duties and compensation.
6. Jurisdiction of court.
7. Powers.
8. Minutes to be read and signed—appeals and writs of error, how taken.
9. Proceedings and practice how governed—

## SECTION

- effect of records and transcripts—laws obligatory on clerk.
10. Jurors—when and how selected.
11. Additional fees—appeals to Circuit court—when.
12. Jury fees—pay of jurors and witnesses—fees, how taxed.
13. Court when and where held and how long—office, fuel, &c., to be furnished.
14. Duty of Sheriff in absence of Judge.
15. Judge not to practise in Marion county.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be and hereby is organized in the county of Marion, a court of record, to be called and styled the "Marion Court of Common Pleas," to consist of one Judge.

SEC. 2. The judge of said court shall have the same qualifications as are now required by law for the president judge of the Circuit courts of this State, and shall at the time of appointment be and continue to be thereafter a resident citizen of the county of Marion. He shall be appointed by joint ballot of both branches of the General Assembly, and shall be commissioned by the Governor. He shall be a conservator of the peace. He shall hold his office for the term of seven years, if he shall so long behave well. He shall take an oath of office and shall be fully qualified and empowered to hold said court, and to do and perform any act required of him, or authorized by law to be done by him as such judge, from and after he shall be commissioned and sworn into office; and should he die, resign, or remove from the county before the expiration of his term, the Governor shall fill his vacancy by appointing some suitable person, of like qualifications and residence, until the next meeting of the General Assembly.

SEC. 3. The judge of said court shall be allowed and paid as his entire compensation, all the moneys that may be taxed as costs, and collected under the express provisions of this act for his use and benefit.

SEC. 4. The judge of said court shall be ex-officio clerk thereof, and shall at the expense of the county of Marion, procure a seal for said court, the device of which shall be entered upon record, and shall also procure at such expense the necessary books, stationery, and records for said court, and he shall be authorized to discharge the duties of clerk by deputy, he shall be allowed the same fees as are or may be allowed by law to the clerk of the Circuit courts for similar services, to be taxed in the costs and collected in like man-

ner; and he shall give bond and security in all respects as is required of the clerks of the Circuit court, for the discharge of the duties of his office as such clerk.

SEC. 5. The sheriff of Marion county shall be ex-officio sheriff of said court of Common Pleas, and shall perform his duties in the same manner, and shall be entitled to the same fees and compensation as are or may be provided by law for similar services in the Circuit courts, and before entering on the duties of his office, as herein provided, he shall execute and file an additional bond, with good and sufficient security, in all respects similar to that required by law to be filed by him originally before entering upon the duties of his office as sheriff of the county of Marion.

SEC. 6. The court hereby created shall have concurrent, original, and appellate jurisdiction with the Circuit court in all civil cases, both in law and equity, and shall have jurisdiction upon change of venue, in all such cases, concurrent with the Circuit courts, but shall have no criminal jurisdiction except as herein provided.

SEC. 7. The court in term time, and the judge in vacation, shall have full power to grant injunctions, to issue writs of habeas corpus, ne exeat, certiorari, procedenda, attachment, and mandamus, in the same manner as the Circuit courts in term time, and the judge of the Circuit court in vacation are or may be authorized to grant and issue, and to fine and punish for contempt, and to exercise all the powers usual or necessary for courts of law and chancery in granting or enforcing restraining orders, decrees and injunctions, and to issue and cause to be executed all process necessary to carry into effect the provisions of this act according to the exigencies of the case, in conformity with the law and usage, governing courts of law and chancery, and to exercise all other powers that the Circuit court in term, or the president judge of said court in vacation, may of right exercise according to law, and the usage of said courts.

SEC. 8. The proceedings of the court each day shall be drawn upon the order book, read in open court and signed by the judge; and appeals may be taken from, and writs of error be issued to all the orders, judgments, and decrees of the court, as is and shall be provided by law in relation to the orders, judgments and decrees of the circuit court.

SEC. 9. The proceedings and practice in said court of Common Pleas, and the powers of said court shall in all respects whatever be governed by this act, and by the laws of the State which may be in force from time to time relative to like proceedings in the circuit court, and all laws relative to the practice in courts of law and chancery which are or may be applicable to the said circuit court, and the practice therein shall be applicable to the proceedings and practice of this court, and the records and transcripts thereof of said court of Common Pleas, shall have the like force and effect as the records and transcripts thereof of the circuit court, and the judgments and decrees of said court of Common Pleas, shall from the signing thereof, create the same lien upon real estate, and the



transcripts of all such judgments and decrees may be filed and recorded in the other counties of this State, and shall have the same lien, force, and effect as like transcripts from the records of the circuit court shall have, and transcripts from the judgments of justices of the peace may be filed and recorded in said court to bind lands, and shall have the same lien and may be enforced in like manner as if such transcripts were filed in the Marion circuit court, and all laws now in force, or which may hereafter be in force relative to the duties of the clerks of the circuit courts of this State, so far as the same shall be applicable to the duties to be discharged by the judge of said court of Common Pleas, as ex-officio clerk thereof, shall be applicable and obligatory upon him as such clerk.

SEC. 19. It shall be the duty of the judge of said court, and the sheriff of the county of Marion, at the first term in each year of said court, to place in a box the names of forty-eight house-holders of said county, from which they shall draw twenty-four jurors, and enter their names upon the record in the order they are drawn, the first twelve so drawn shall serve as the petit jury at the first term thereafter, and the next twelve shall serve at the next succeeding term; and venires from time to time shall issue requiring their attendance: *Provided*, when from any cause the regular jury in whole or in part shall be absent, it shall be lawful for the court to empanel a jury of bystanders of the requisite qualifications as jurors shall be required, or the court may, in its discretion, issue a venire for a special jury.

SEC. 11. In all judgments in original causes in law, except ejectment and disseisin, there shall be taxed against the unsuccessful party a fee of three dollars, and in all decrees in chancery and of divorce, and in cases of ejectment and disseisin, there shall be taxed in like manner a fee of five dollars, and in all appeal causes from and writs of certiorari to the judgment of justices of the peace, there shall be taxed a fee of two dollars, payable as shall be ordered by the court, all of which fees shall be taxed and collected as costs for the use of the judge of the court, and when collected shall be paid over to him as part of the perquisites of his office. *Provided*, That upon the return of an execution or fee bill for the costs assessed as above with the endorsement thereon by the proper officer of "No property found," if the party against whom said execution or fee bill was issued be the defendant in said case, it shall then be lawful for the clerk of said court to issue a fee bill against the plaintiff or plaintiffs, complainant or complainants in said case for the amount of the fees assessed as aforesaid, and when the plaintiff or plaintiffs, complainant or complainants shall have paid the amount of said costs, he or they shall be entitled at any time thereafter to have a fee bill issued for his or their use against the party upon whom said costs were originally taxed: *And provided further*, That a writ of error or an appeal, shall lie to the Marion circuit court from any decision of the court of Common Pleas upon the taxation of costs, and in all such cases the judge shall certify a statement of the

question to be decided by the circuit court, without sending up the records, but such writ of error or appeal shall in no case stay execution on the judgment or decree, except as to such costs.

SEC. 12. In each case tried by a jury there shall be taxed up against the unsuccessful party in favor of the county of Marion, the like jury fees as are now taxed in the circuit courts of the State; and the same shall be collected, paid over, and receipted for in like manner. Jurors and witnesses shall be entitled to the same pay and be paid in the same manner as in the circuit court of said county of Marion, and all rules and regulations of law relative to the taxation and collection of the same which now are, or may hereafter be in force in the circuit courts, shall apply to the court hereby organized.

SEC. 13. Said court of Common Pleas shall hold its sessions in the court house of the county of Marion, and it shall be the duty of said county to furnish a suitable office for the clerk of said court, with necessary fuel and lights therefor, and for said court. There shall be two terms of said court of Common Pleas in each year, the one to commence on the second Monday in January, and the other on the second Monday in July, and said court shall sit four weeks at each term if the business thereof shall require it, and may sit after said term to close any case upon trial at the expiration of the term; and said judge may order an extra session of said court in each year at such time as he shall appoint, to hear and determine chancery causes and render decrees, if in his opinion the state of the chancery docket shall require it, which extra session shall not sit over two weeks.

SEC. 14. Should the judge of said court of Common Pleas be absent at the commencement of any term of said court, the sheriff shall continue the same from day to day during the first week, and shall [should] the judge not attend on the Monday of the second week, the sheriff shall continue the court until court in course, which continuance shall be entered upon the record, and signed by the sheriff, and shall operate to all intents and purposes as a continuance of all causes and proceedings pending in said court until the next regular term thereof.

SEC. 15. The judge of said court of Common Pleas shall not be eligible to practise law in any court held in the county of Marion: *Provided*, That said judge shall be eligible to practise in the supreme court in cases from any of the other circuit courts of the State, and shall also be eligible to close any case in which he may be engaged at the time of his appointment.

SEC. 16. This act shall be taken and deemed a public act, and shall be in force from and after its passage.



## CHAPTER XLVI.

AN ACT to amend an act entitled "An act creating the Tippecanoe Court of Common Pleas, and defining its jurisdiction, approved January 8, 1848.

(APPROVED JANUARY 8, 1849.)

## SECTION

1. Plaintiffs may remove causes from circuit to court of common pleas and how.
2. All powers of circuit court in writs of Habeas Corpus and concurrent jurisdiction &c., conferred on common pleas—appeal

## SECTION.

- to supreme court—judge to administer oaths, &c.
3. May adjourn not exceeding three days—in absence of judge, president judge of any circuit court may preside.
4. Master in chancery may be appointed—his duties, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the plaintiff or complainant in any civil cause now pending, and the plaintiff in any civil cause appealed from a justice's court, which may hereafter be pending in the circuit court of said county of Tippecanoe, may remove the same into the said court of common pleas, by filing with the clerk of said circuit court an order commanding him to docket said cause as a cause in said court of common pleas, and paying to said clerk the sum now required by law upon the commencement of a suit of the same kind. Upon such an order being filed, and such sum paid, said clerk shall strike such cause from the docket of said circuit court, and file the papers therein, and docket the cause among the causes in said court of common pleas, and the plaintiff or complainant or his attorney shall, within eight days thereafter, serve on the defendant or his attorney a written notice of such removal, and thereupon said court of common pleas shall have full jurisdiction of such cause, the same as if it had been originally commenced therein, and the costs already accrued in such cause; together with such as may thereafter accrue therein, shall abide the result of the suit, and be taxed as in other cases, such cause so removed shall stand for trial at any term of said court of common pleas thereafter; *Provided,* the notice of removal shall have been served at least ten days before the first day of said term. All entries and orders made in the circuit court in any such cause, shall form and constitute a part of the record, or a transcript, or taxing costs, or any other proceeding where the same may become necessary, and may be referred to and read whenever the same may become necessary in said court of common pleas. The moneys which may be received by the clerk upon the transfer of causes as aforesaid in this section shall be taxed with the costs as in other cases.

SEC. 2. All the powers conferred by law on the circuit court in term time, or the president judges thereof in vacation, while acting

in or upon any case of habeas corpus, are hereby conferred by law upon said court of common pleas, or the judge thereof in vacation, from whose decision an appeal may be taken to the supreme court, as is now provided by law in such cases from the decisions of the circuit court or the judges thereof, said court of common pleas shall have concurrent jurisdiction with the circuit court of said county in all cases of appeals from the board of county commissioners, in all cases of information in the nature of a *quo warranto*, in all cases of writs of mandamus and prohibition, in all cases of *ad quod damnum*, and in all cases of filing transcripts of judgments rendered in any justice's court for the purpose of creating a lien upon and obtaining execution against the lands and real estate of any defendant therein, and in all special proceedings not of a criminal nature, and in all such cases shall be governed by the rules and provisions of law applicable to said circuit court in similar cases. The judge of said court shall have full power to administer oaths, take and certify depositions, take and certify the proof or acknowledgment of deeds, and solemnize marriages, in all cases in the same manner, and with the same effect that a justice of the peace may by law do the same.

SEC. 3. The said court at any time shall have full power to adjourn the same for any time not exceeding three days, and the day to which such adjournment shall be made shall be deemed a continuation of the said term. In case the said judge of said court should be absent any term thereof, or sick, or unable from any cause to hold any term, or any portion of a term, the president judge of any circuit court in this State may preside and hold any such term, or portion of a term, with the same powers in every particular as the judge thereof was [has] or could exercise if present.

SEC. 4. The judge of said court may appoint some suitable person, who shall be a resident of said county and an attorney at law, a master in chancery in said court, who shall receive his appointment in writing from the judge of said court, and shall continue in office until removed by said court, and such master in chancery, when so appointed, shall take the like oath of office, shall have the same powers and be governed by the same provisions of law, as masters appointed by the president judge of a circuit court, and shall be entitled to such fees in any cause or matter referred to him, to be taxed with the costs in such case, as the court may allow.

SEC. 5. This act shall take effect and be in force from and after its passage, and it is hereby made the duty of the Secretary of State forthwith to forward to the clerk of the county of Tippecanoe a certified copy of this act.



## CHAPTER XLVII.

*AN ACT to amend an act in relation to the sale of real estate by executors and administrators, approved 13th January, 1845.*

(APPROVED JANUARY 16, 1849.)

## SECTION

1. The provisions of the act of 12 January,

## SECTION

1845, be extended to sales made by guardians, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the act approved January 13, 1845, in relation to the sale of real estate by executors and administrators, be and the same is hereby extended to sales made by guardians to minors, idiots, or insane persons, in the same manner as the same applies to sales by executors and administrators.*

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER XLVIII.

*AN ACT to amend the 209th section of chapter 30 of the revised statutes of 1843.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. Insolvent claims filed in probate court may be disposed of, and how.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That whenever any debt or demand in favor of any estate shall have been filed as desperate or insolvent, or for other causes under the two hundred and ninth section of chapter thirty of the revised Statutes of eighteen hundred and forty-three, and shall have remained on file one year without being claimed or sued for under the provisions of said statutes, that any creditor or creditors, legatee or heir of such estate, may take such claim absolutely, and sue for, recover and receive to his or their use the amount of such claim so filed as aforesaid, giving preference to creditors in the taking of said claim; Provided such claim or claims, when so taken, shall not exceed the debt due to such creditor or creditors,*

and that the same has been duly proved and allowed by the probate court in which the settlement of such estate shall have been made.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER XLIX.

*AN ACT defining the duties of administrators de bonis non in certain cases.*

(APPROVED JANUARY 15, 1849.)

## SECTION

1. Administrator *de bonis non* may main-

## SECTION

tain an action on the official bond of his predecessor.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That in all cases where the executor or executors, administrator or administrators of the estate of any decedent shall have died, absconded, or become insolvent, and the probate court of the proper county shall for these causes, or for any other cause whatever, have appointed a successor or successors as administrator or administrators "de bonis non" of said decedent, the said executor or executors, administrator or administrators so removed, (if living, and his or their securities, or if dead, his or their securities,) shall be liable on his or their official bond for any and all moneys and assets received by the said executor or executors, administrator or administrators, which are in his or their hands unaccounted for; and the said administrator or administrators "de bonis non" of said decedent, or the successor or successors of the said executor or executors, or administrator or administrators may maintain an action on the official bond of his or their predecessors, or otherwise for the recovery of all or any money or assets which have so come into the hands of such executor or executors, administrator or administrators, and which remain in the hands of such administrator or administrators, executor or executors, unaccounted for.*

SEC. 2. All laws and parts of laws coming within the purview of this act, be and the same is [are] hereby repealed.

SEC. 3. This act to be in force from and after its passage.



## CHAPTER L.

*AN ACT to amend the laws relating to the execution of deeds by order of the Probate Court.*

(APPROVED JANUARY 15, 1849.)

## SECTION

1. Deeds how made and their effect—in case of purchaser's death.

## SECTION

2. When land is not in the county where order of sale is made—Deeds how made.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases when sale of real estate has, or may be made, by order of any Probate Court in this State, on the application of any administrator, executor, or guardian, and before or after confirmation of such sale the purchaser dies, the said sale may be confirmed and conveyance made to him in the same manner as if he were living, and the same shall enure to the benefit of his heirs, as though the deed had been made to them, their heirs and assigns forever by name: *Provided,* That the deeds enuring to the benefit of any heirs of any decedent as above provided, shall so enure subject to all rights of the creditors of said decedent, and all deeds hereafter executed in the name of such decedent shall have the same effect as if made to and in the name of his heirs and their assigns forever by name.

SEC. 2. When any sale made by virtue of any order contemplated in the first section of this act, and confirmed by the court making such order, if the land does not lie in the county in which such court is held, the purchaser, or other person to whom he is bound to make title to such land on payment of the purchase money, on motion in the court making such order, may have conveyance made of said land to such purchaser or person purchasing from said purchaser, or by filing a copy of the order of sale, report of sale and confirmation, in the Probate court of the county where such land lies, the last mentioned court may have all the power to order conveyance of such land, to the purchaser or his vendee, and approve the same that the court making such order has under this or any other law of this State.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER LI.

*AN ACT for the Relief of Widows.*

(APPROVED JANUARY 12, 1849.)

## SECTION

1. When personal estate is less than \$150, the residue may be claimed by widow out of assets of real estate.

## SECTION

2. Duty of Court when administrator or others, shall fail or refuse to pay over to Widow.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where any deceased husband shall leave real estate, and whose personal estate shall be of a less value than one hundred and fifty dollars, and where administration of such estate is granted either by will or by the proper court, if said real estate or any part thereof, shall be sold by any executor, or administrator, or by any other authority, and the same shall be by an order of court, converted into personal assets, it shall be lawful for the widow of such decedent to claim and receive of and from such executor, administrator, or other authority, so much of the proceeds of the sale of said real estate as will, with the amount of personal estate she may have received, amount to the full sum of one hundred and fifty dollars; and the receipt of such widow shall be a sufficient voucher in the hands of such executor, administrator, or other authority, for the amount paid over to such widow.

SEC. 2. In all cases where any executor, administrator, or other authority, shall fail or refuse to pay over to any such widow as aforesaid, such sum or sums as she may be justly entitled to, under the provisions of the first section of this act, it shall be the duty of the proper court, on motion to order and direct the same to be paid over as provided for in this act.

SEC. 3. This act to take effect and be in force from and after its passage.



## CHAPTER LII.

*AN ACT to authorize the transfer of cases pending in the Probate to the Circuit Court, as far as relates to Putnam county.*

(APPROVED JANUARY 16, 1849.)

## SECTION.

1. Cases may be transferred from Probate to Circuit court, and how.
2. To what cases extended.
3. Certified transcripts not necessary.
4. Clerk's duty.

## SECTION

5. Clerk's fees.
6. Power of Circuit court in such cases.
7. When and how appeals, and writs of certiorari.
8. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That hereafter it shall be lawful to transfer from the Probate court of Putnam county, all cases either in law or equity, now pending or that may hereafter be instituted therein, to the Circuit court of the same county, in any stage of the proceedings before such Probate court, under the same rules and regulations, and for the same causes, as changes of venue are granted from one county to another, except as herein specially provided otherwise.*

SEC. 2. The provisions of this act shall extend to all cases in chancery, suits at law, settlement of estates, by administrators or executors, guardianships, motions, applications to sell real estate, and to all manner of suits and proceedings now authorized by law to be commenced and prosecuted in the Probate court of Putnam county.

SEC. 3. That it shall not be necessary in any cause so transferred, as aforesaid, for the Clerk of the Probate court, to make out a certified transcript of the proceedings of such Probate court prior to the time of taking such transfer, but the order book and other records of such Probate court shall have the same force and effect, as if such transcript were made out and duly certified. And all complete records made in such cases, shall be made out in the same manner as if such transfer had never been taken.

SEC. 4. Whenever any such transfer is taken, it shall be the duty of the Clerk of the Circuit court to docket such cause among the causes pending in the Circuit court, and such transferred cause shall stand for hearing, trial or settlement at the next succeeding term of the Circuit court, if such transfer is taken twenty days prior to the first day of said term, if not, then at the next succeeding term of the said court.

SEC. 5. The clerk of the Circuit court shall be allowed the same fees for their services, as if such cases had never been transferred.

SEC. 6. The Circuit court of said county of Putnam, shall have full power to hear and determine all cases so transferred, and shall be governed in all respects by the law now in force defining the power, jurisdiction, and duty of the Probate courts.

SEC. 7. That if upon the proper application for such transfer, the Probate court shall refuse to grant the same, it shall be lawful for the party applying for the same, to take an appeal, or have the same brought before the Circuit court upon writ of certiorari, as appeals and causes are now allowed to be taken to the Circuit court from justices of the peace; and upon such appeal or writ of certiorari, the third section of this act so far as the record is concerned, shall govern the manner of bringing such cause before such Circuit court.

SEC. 8. All laws contravening the provisions of this act are hereby repealed, so far as the same relates to the county of Putnam, and this act shall be in force from and after its passage.

## CHAPTER LIII.

*AN ACT relative to the Probate Court of Morgan county.*

(APPROVED JANUARY 16, 1849.)

## SECTION

1. When Associate Judges may hold Probate court in Morgan county.

## SECTION

2. Their powers and compensation.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That in the event of the absence or inability from any cause, of the Probate Judge of said county of Morgan to hold the Probate court thereof, it shall be the duty of the Associate Judges of said county, or either of them in the absence of the other, to hold any term or part of term of said court.*

SEC. 2. That said Associate Judges, while holding said Probate court, shall have the same powers, and receive each the same compensation that the proper judge of said court receives.

SEC. 3. This act to be in force from and after its passage.



## CHAPTER LIV.

*AN ACT to authorize the probate court in Bartholomew county to sit two weeks at its February term.*

(APPROVED JANUARY 5, 1849.)

SECTION 1. Probate court in Bartholomew county to sit two weeks at its February term if business require.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That it shall be lawful for the probate court in and for said county of Bartholomew, to sit two weeks at its February term, in each and every year, if the business thereof require it.*

SEC. 2. This act to take effect and be in force from and after its passage, and it is hereby made the duty of the Secretary of State to forward a certified copy thereof to the clerk of the probate court of said county.

## CHAPTER LV.

*AN ACT in reference to the appointment of probate judge of Wayne county.*

(APPROVED JANUARY 16, 1849.)

SECTION	SECTION
1. When Jesse Williams to preside, and compensation.	2. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That so long as George W. Whitman, the probate judge of Wayne county, shall continue sick and unable to hold any session or sessions of said probate court, the said session or sessions of said court shall be held by Jesse Williams, one of the associate judges of said county, in whom the same power is hereby vested, and upon whom the same liability is imposed as appertains to the regularly elected probate judge. The said Jesse Williams shall, during the time he may discharge the duties of such probate judge, be entitled to the same compensation, and be subject to the same rules and regulations in all things appertaining to the holding of such sessions of said courts as the regularly elected probate judge.*

SEC. 2. All acts or parts of acts contravening the provisions of this act, be and the same are hereby repealed.

SEC. 3. This act to be in force from and after its passage, and it shall be the duty of the Secretary of State to forward to the clerk of the Wayne circuit a certified copy of this act.

## CHAPTER LVI.

*AN ACT to extend the time of holding probate courts in the county of Monroe.*

(APPROVED JANUARY 13, 1849.)

SECTION 1. Probate court in Monroe county to sit two weeks in 1849, if the business require.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the probate court of Monroe county shall sit two weeks at each term thereof, in the year eighteen hundred and forty-nine.*

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LVII.

*AN ACT fixing the time of holding the February and August terms of Hancock probate court.*

[APPROVED JANUARY 16, 1849.]

SECTION 1. The February and August terms of the Hancock probate court to commence on the first Mondays of said months.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the February and August terms of the Hancock probate court shall commence on the first Mondays of said months, and shall sit six days if the business thereof require.*

SEC. 2. This act to take effect and be in force from and after its passage.



## CHAPTER LVIII.

## AN ACT relative to the practice in Probate Courts.

(APPROVED JANUARY 16, 1849.)

## SECTION.

- |   |   |
|---|---|
| 1. Petitions may be filed in vacation, and proceedings thereon. | SECTION.<br>2. Not necessary to make the heirs parties to settle insolvent estates. |
|---|---|

WHEREAS, Doubts have arisen as to the true intent and meaning of of sections 219, 220, 221, 222, 223, 224, of article 9, chapter 30, of the Revised Statutes of 1843; AND WHEREAS, great inconvenience and unnecessary delays are occasioned in the settlement of decedents, estates, by the interpretation, which requires an order of court before heirs, &c., can be summoned to appear at the next term of the proper probate court, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That from and after the passage of this act, executors and administrators may file their [petition] in the proper clerk's office for an order to sell real estate in vacation, whereupon the clerk shall, without an order of the court, issue summons, directed to the sheriff, or other proper officer of the county, to summon the heirs, legatees, or devisees, or cause notice of the pending [pendency] of said petition, to be given by publication in like manner, as if such petition had been filed and presented to the court in term time, and the cause shall stand for hearing at the next term after the petition is filed, and shall then be heard, if due notice has been given of the pendency thereof according to the provisions of the sections of the Revised Statutes of 1843, above mentioned.

SEC. 2. It shall not be necessary to make the heirs of any decedent or testator parties in proceedings to settle the estate as insolvent.

SEC. 3. This act shall be in force from and after its passage.

## CHAPTER LIX.

## AN ACT making the education of Deaf and Dumb persons in Indiana free.

(APPROVED DECEMBER 5, 1848.)

## SECTION.

1. Persons admitted without charge to the benefits of the Deaf and Dumb Asylum.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter all proper subjects for instruction in the Indiana Deaf and Dumb Asylum shall be admitted to all benefits of said institution without charge: *Provided*, That the trustees of said institution shall be the judges under the laws now in force, of who are proper persons to be instructed in said institution.

SEC. 2. This act shall take effect and be in force from and after its passage.

## CHAPTER LX.

## AN ACT to provide for the manner of letting the work of the Asylum [for] the Education of the Deaf and Dumb.

(APPROVED JANUARY 16, 1849.)

## SECTION.

1. Lettings for the work of the Deaf and Dumb Asylum to be to the lowest bidder.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter, in all lettings necessary to be made in the erection and completion of the Indiana Asylum for the education of the Deaf and Dumb, or for the furnishing materials for the same, the Board of Trustees for said Asylum, or their agents, shall give at least twenty days public notice thereof, and also that they will receive sealed proposals for said work or any portion thereof, or for materials for the same, as the case may be; and shall also make public the specifications of the same. And said Board of Trustees or their agent shall, after having complied with the provisions of this act as aforesaid, proceed to let said work [on] the day specified, to the lowest responsible bidder: *Provided, however*, that said Board of Trustees, or their agents, shall be and are hereby authorized, to



select at their election, and in their sound discretion, such bids as will in their opinions best subserve the true interests of the State.

SEC. 2. This act shall take effect and be in force from and after its passage.

## CHAPTER LXI.

AN ACT to amend section one hundred and one, of chapter thirty-eight of the Revised Statutes of 1843.

(APPROVED JANUARY 16, 1849.)

### SECTION.

1. Clerks of the Probate Court and their deputies not allowed to practise as attorneys.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That no clerk of the probate courts of this State shall be permitted to practise as an attorney or counsellor at law in the probate court of which he is clerk; nor shall any deputy clerk of the supreme, circuit, or probate courts, be permitted to practise as an attorney or counsellor at law in the court of which he is such deputy clerk.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER LXII.

AN ACT to amend the statute regulating the granting of divorces.

(APPROVED JANUARY 1, 1849.)

### SECTION.

1. Petitioner to reside in the State one year.  
2. One year's abandonment sufficient cause when time may be waived.

### SECTION.

3. Repeal clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That divorces dissolving the marriage contract may be decreed by the several circuit courts sitting in chancery for any of the

causes mentioned in the fortieth section of chapter thirty-five of the Revised Statutes of 1843, whenever the party suing for such divorce has resided in the State for the term of one year immediately preceding the filing of his or her bill of complaint.

SEC. 2. The abandonment of one party by the other for the space of one whole year next preceding the filing of such bill shall be a sufficient cause for a decree of divorce upon the application of the injured party: *Provided,* That it shall be lawful for such court, in their discretion, to grant a divorce, waiving all objections in regard to time of separation, when, in the opinion of the court, such circumstances exist as to render a reconciliation of the parties hopeless.

SEC. 3. So much of the statutes now in force as conflicts with the provisions of this act, be, and the same are hereby repealed.

SEC. 4. This act to be in force from and after its passage.

## CHAPTER LXIII.

AN ACT to establish an additional place of holding elections in Delaware township, in the county of Hamilton.

(APPROVED JANUARY 16, 1849.)

### SECTION

1. Inspectors. when elected, and where to reside.  
2. Where additional poll opened.

### SECTION

3. Voters may vote at either poll.  
4. Duties of inspectors.  
5. Further duties of inspectors.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the qualified voters of Delaware township in Hamilton county, shall hereafter, at the annual spring elections for township officers, elect two inspectors of election, one of which said inspectors shall reside on the east side of White river.

SEC. 2. That the said inspector so chosen for the east side of said river, shall, at the times and in the manner prescribed by the several election laws now in force in this State, open an additional poll and hold elections for all purposes at the house of James Heady.

SEC. 3. It shall be lawful for all qualified voters of said township to vote at such additional poll at all elections.

SEC. 4. The said inspectors shall meet at the oldest precinct in said township the first Thursday after each election for all township officers excepting justices of the peace, compare the votes, and issue certificates of election to all such township officers under their hands.



SEC. 5. The returns of elections for justices of the peace, all county, State, and United States officers, shall be made by said inspectors to the places and in the manner now prescribed by law.

SEC. 6. This act to take effect and be in force from and after its passage.

#### CHAPTER LXIV.

AN ACT to amend the thirteenth article of the fortieth chapter of the Revised Statutes of 1843.

(APPROVED JANUARY 15, 1849.)

##### SECTION

1. Any officer neglecting to return execution, the plaintiff may recover of officer and damages.

##### SECTION

2. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That if any sheriff, coroner, constable, or other officer, shall have neglected or refused, or shall hereafter neglect or refuse to return any writ of execution to the court to which the same is returnable, on or before the return day thereof, the plaintiff in such execution, or party aggrieved, shall be entitled to recover from such officer and his sureties, the full amount collected or received by such officer, or which he might and should have collected and paid over, with interest, and ten per centum thereon.*

SEC. 2. That all laws and parts of laws conflicting with the provisions of this act, are, so far as they conflict with the same hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

#### CHAPTER LXV.

AN ACT to increase the salary of probate judge of Wayne county.

(APPROVED JANUARY 15, 1849.)

##### SECTION

1. One dollar per day additional allowed to probate judge of Wayne county.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That hereafter the probate judge of Wayne county shall receive, in addition to his present salary, one dollar per day for each day employed in the discharge of his official duties, the same to be paid out of the county treasury, upon the warrant of the county Auditor.*

SEC. 2. So much of any act or acts as may conflict with this act be and the same are hereby repealed. This act to be in force from and after its passage.

#### CHAPTER LXVI.

AN ACT relative to the probate judge of Laporte county.

[APPROVED JANUARY 16, 1849.]

SECTION 1. Probate judge of Laporte county allowed three dollars per day in addition to the sum allowed by State.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the county commissioners of Laporte county are hereby authorized to make an allowance to the probate judge of said county of three dollars per day, in addition to the sum allowed by the State, to be paid out of the treasury of said county.*

SEC. 2. This act shall be in force from and after its passage.

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## CHAPTER LXVII.

*AN ACT relative to the pay of the Probate Judge in the county of Grant.*

(APPROVED JANUARY 16, 1849.)

SECTION	SECTION
1. Probate Judge of Grant county to be allowed three dollars per day.	2. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That hereafter the probate judge in and for the county of Grant, and State of Indiana, shall receive three dollars per day for his services as such judge: Provided, That said additional one dollar per day over and above the amount now allowed by law shall be paid out of the county treasury of said county of Grant.*

SEC. 2. All laws and parts of laws conflicting with the provisions of this act, be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage, and it is hereby made the duty of the Secretary of State to cause a certified copy of the same to be filed in the clerk's office of the Grant circuit court.

## CHAPTER LXVIII.

*AN ACT to regulate Clerk's Fees in the Probate Court of Parke county.*

(APPROVED JANUARY 16, 1849.)

SECTION	SECTION
1. Fees for entering, docketing and continuing causes.	2. Fees for Letters of Administration, &c. 3. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That hereafter the clerk of the circuit court in the county of Parke, and State aforesaid, shall enter, docket and continue causes in the probate court of said county at ten cents per hundred words for such services, and that not more than one hundred shall be deemed as such and charged for as the law now provides.*

SEC. 2. And for issuing letters testamentary, letters of administration, and letters of guardianship, the said clerk shall be allowed one dollar and fifty cents, and no more.

SEC. 3. And that all acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

SEC. 4. This act to be in force and take effect from and after its passage.

## CHAPTER LXIX.

*AN ACT regulating the Fees of Justices of the Peace, Mayors and Constables, and for other purposes.*

(APPROVED JANUARY 15, 1849.)

SECTION	
1. Clerk of Circuit Court to tax up fees of	Mayor, Justices of the Peace and Constables as other costs.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That in all cases where any person shall be recognized by a justice of the peace, or mayor of a city, to the circuit court, and shall be indicted and convicted in said court, it shall be the duty of the clerk of the said court to tax up, with the costs of the circuit court, all the costs that accrued before the justice of the peace, or mayor of [a] the city, and to cause to be collected as costs are now collected in the circuit court.*

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LXX.

*AN ACT to authorize the Board of Commissioners of the county of Monroe, to make additional compensation to the Probate Judge of said county.*

(APPROVED JANUARY 16, 1849.)

SECTION	SECTION
1. Probate Judges to be allowed \$1 00 per day extra, and how paid.	2. County Commissioners allowed \$3 00 per day.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the board of county commissioners of said county,*



shall be authorized to make additional compensation of one dollar per day, to be paid out of the county treasury of said county, to the probate judge, upon the certificate of the clerk of the probate court, as to the number of days employed.

SEC. 2. That the board of commissioners of the county of Monroe be and they and each of them are hereby allowed the sum of three dollars per day for their services as such, and that all acts and parts inconsistent with the provisions of this, be and the same are hereby repealed so far as they relate to the county of Monroe.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER LXXI.

*AN ACT establishing the salaries of the Auditor and Treasurer of Jay County, and the Recorder of Steuben County.*

(APPROVED JANUARY 13, 1849.)

SECTION	SECTION
1. Salary of Auditor of Jay county \$400 00 per annum.	2. exceed \$400 00 per annum.
2. Salary of Treasurer of Jay county not to	3. Recorder of Steuben to receive fifty cents for recording each deed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners of Jay county shall annually allow the county Auditor of said county any sum not exceeding four hundred dollars out of the county treasury of said county, which sum shall be in full for all services performed by such Auditor.

SEC. 2. The county board aforesaid shall annually allow the Treasurer of said county any sum out of the county treasury which they may think just and reasonable; *Provided, however,* That the allowance thus made by the board aforesaid, with the per centum of said Treasurer for collecting and paying over the State revenue, shall in no instance exceed four hundred dollars per annum.

SEC. 3. The Recorder of Steuben county shall receive fifty cents for recording each and every deed, and no more.

SEC. 4. This act to take effect from and after its publication.

## CHAPTER LXXII.

*AN ACT to regulate the fees and emoluments of the Auditors and Treasurers of the counties of Lagrange and Steuben.*

(APPROVED JANUARY 16, 1849.)

SECTION	SECTION
1. Compensation of Auditor and Treasurer.	4. Treasurers—when, where, and how to return list of fees.
2. Auditor—when, where, and how to return list of fees.	5. County Commissioners to make half yearly allowance to Treasurer.
3. County Commissioners to make half yearly allowance to Auditor.	

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That from and after the first day of March next, the Auditors and Treasurers of the counties of Lagrange and Steuben, and their successors in office, shall receive the sum of seven hundred dollars per annum each, which said sum shall be full compensation for all the services, which they may perform as such officers.

SEC. 2. It shall be the duty of the Auditors of said counties upon the first Mondays of March and September of each year, commencing on the first Monday of September, 1849, to make to the board of commissioners, in such form as said board may direct, a return in writing, embracing all the fees and emoluments of said office, and all compensation for labor in any manner which said Auditors have received by virtue of said office for the half year ending at that time, which said return shall in all cases be verified by the oath of said office.

SEC. 3. It shall be the duty of said board of commissioners to make half yearly allowances to such Auditor, of such sum as will make his half yearly salary equal to the sum of three hundred and fifty dollars, to be paid out of the treasury of said county.

SEC. 4. It shall also be the duty of the Treasurer of said county upon the first Monday of March of each year, commencing on the first Monday in March, A. D. 1850, to make to the said board of commissioners in such form as said board may direct, a return in writing embracing all the fees and emoluments of the said office, and all compensation for collecting the State revenue and from all other sources which he has received by virtue of said the office, excepting his per centage for collecting the county revenue, which statement shall at all times be verified by the oath of said officer.

SEC. 5. It shall be the duty of the said board of commissioners to make an annual allowance to said Treasurer, to be paid out of the treasury of said counties of such sum as will make his annual salary equal to the sum of seven hundred dollars.

SEC. 6. This act to be in force from and after its passage, and shall be deemed a public act.



## CHAPTER LXXIII.

*AN ACT to increase the pay of the Probate Judge of certain Counties therein named.*

(APPROVED JANUARY 16, 1849.)

SECTION 1. County Commissioners of certain counties to allow Probate Judge not exceeding \$1 00 per day, extra of the present per diem pay, and how paid.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the county commissioners of Jefferson, Clarke, Steuben Decatur, Franklin, Warren, and Grant counties, be, and they are hereby authorized and empowered to pay out of the county treasury of said counties, a per diem allowance not exceeding one dollar per day, to the probate judges of said counties, extra of the present per diem pay.*

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER LXXIV.

*AN ACT to authorize the Governor, Auditor, and Treasurer of State, to borrow a sum of money not exceeding ninety-five thousand dollars to pay the interest due on the funded debt, on the first day of January, 1849.*

(APPROVED DECEMBER 27, 1848.)

SECTION  
1. Loan authorized.

SECTION  
2. When and how paid.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the Governor, Auditor, and Treasurer of State be authorized to borrow from the branches of the State Bank of Indiana, any sum not exceeding ninety-five thousand dollars, which sum so borrowed shall be appropriated to the payment of the instalment of interest due on the funded debt of January 1st, 1849.*

SEC. 2. *Be it further enacted, That said money shall be repaid to such banks as may lend the same, out of any money in the treasury at any time unappropriated, and the whole shall be refunded by the first day of April, 1849.*

## CHAPTER LXXV.

*AN ACT to authorize the Judge of the Probate Court of St. Joseph county to grant and try writs of habeas corpus, and for other purposes.*

(APPROVED JANUARY 10, 1849.)

SECTION

1. To grant and try writs of habeas corpus.

SECTION

2. Additional compensation, and how paid.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the Judge of the Probate court of the county of St. Joseph be and he is hereby authorized to grant and try writs of habeas corpus, and shall have and exercise the same powers and jurisdiction in granting and trying said writs of habeas corpus, as is granted to the Judges of the Supreme and Circuit courts.*

SEC. 2. The said Judge, while employed in holding Probate courts, shall be allowed, in addition to the compensation now allowed by law, the further sum of one dollar per day for each and every day while so employed, which additional compensation of one dollar per day shall be paid [out] of the county treasury of said county of St. Joseph.

SEC. 3. This act shall take effect and be in force from and after its passage; and it is hereby made the duty of the Secretary of State to transmit a certified copy of this act to the clerk of the Circuit court of said county.

## CHAPTER LXXVI.

*AN ACT in relation to the law prohibiting the Indians from selling lands in this State.*

(APPROVED DECEMBER 5th, 1848.)

SECTION

1. Where Indians, by agent, may file petition and proceedings thereon.  
2. Land may sell for appraised value.  
3. Agent may file petition to sell lands of infants—proceedings thereon.

SECTION

4. Agent to make deeds and their effect.  
5. Julian Benoit the agent—bond, &c.  
6. Allen Probate court may sell lands in other counties—agent's compensation.  
7. Vacancy how filled.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That all Miami Indians prohibited by law from alienating*



or encumbering lands in this State, may hereafter, through and by the agent hereinafter named, file a petition in the probate court of the county of Allen, therein describing the land proposed to be sold and praying the sale thereof, and thereupon the said court, should it deem the said sale advisable, shall cause the said agent to have the said land to be duly appraised, under oath, by two discreet freeholders who are acquainted with the land—its quality and advantages, and that upon the return of said appraisement to said court said court shall order and decree a sale thereof on the terms that said land shall not be sold for a less sum than two-thirds of its said appraised value, and if on a credit, the payments shall be in instalments with interest, except the first payment, which shall be made when the land is conveyed, and the payment of said instalments shall be secured by a mortgage of said agent for the use of the Indian who caused the land to be funded or disposed (of) as said court shall order.

SEC. 2. That on the return of said appraisement any person wishing to purchase said land may purchase the same by paying the appraised value thereof on such terms and conditions as said court may order and decree, and on said purchaser complying with the terms prescribed by said decree, the said agent shall convey said lands to such purchaser.

SEC. 3. That in case the said agent shall deem it necessary that land of said Indians who are infants should be sold for the benefit of such infants, or for the purposes of their education and support, he shall file a petition in said court, therein setting forth his reasons for such sale, as well as a description of the land proposed to be sold, together with an appraisement as aforesaid; and should said court deem such sale advisable, an order and decree to that effect shall be made accordingly, and the same shall be sold and conveyed as the lands of adult Indians, by the provisions of this law.

SEC. 4. And upon the confirmation by the court of any and all sales made by such agent, in conformity with any and all decrees of said court, the said agent shall make and execute to any and all purchasers, such conveyance or conveyances as said court may order, in his name as such agent, which shall operate as an effectual bar both in law and equity against such Indian or Indians, as if the same had been executed by such Indian or Indians, and if such Indian or Indians be an infant or infants, as if he, she, or they had executed said conveyance at full age, and that if said proceedings are conducted in good faith and without fraud they shall not be liable to be opened by such infant or infants upon coming at full age.

SEC. 5. That Julian Benoit is hereby appointed said agent, and that before entering upon the duties of said agency he shall file in said court his bond with such security as shall be approved by said court, conditional for the faithful performance of all the duties and trusts of said agency and upon his said bond having been approved and filed in said court he shall enter upon the duties under said appointment.

SEC. 6. That said court shall have power to order sales of lands of said Indians situated in any county in the State, as fully, and to all intents as if said lands were all situated in said county, and said court shall from time to time allow the said agent a fair and adequate compensation for his services in each case when he may have conveyed lands under the order of said court, which is to be taken out of the proceeds of the sale of land that incurred the expense.

SEC. 7. That in case of the death, removal or resignation of said Julian Benoit, agent as aforesaid, the said probate court have power to appoint such person or persons as said court shall deem suitable and proper to execute said office, and upon his filing his bond, approved by said court as aforesaid, he or they shall be authorized to execute the duties of said office, as heretofore provided in this law.

SEC. 8. This act to take effect and be in force from and after its passage.

## CHAPTER LXXVII.

AN ACT to repeal section 3, chapter 28, of the Revised Statutes of 1843, relative to sales by Indians, relative to contracts with Indians.

[APPROVED JANUARY 15, 1848.]

SECTION 1. Law prohibiting Indians from selling lands without consent of the Legislature repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That section three, (3) chapter twenty-eight, (28) of the revised statutes of 1843, be, and the same is hereby repealed.*

SEC. 2. This act shall be in force from and after its passage.



## CHAPTER LXXVIII.

AN ACT to amend "An act for the government of the Indiana Hospital for the Insane;" approved February 15, 1848.

[APPROVED JANUARY 12, 1849.]

## SECTION

1. Assistants conveying patients to Hospital allowed seven cents per mile—and how computed.

## SECTION

2 County Boards authorized to make additional allowance to persons assisting to take insane persons to the Hospital.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the blank contained in the thirty-fourth section of "An act for the government of the Indiana Hospital for the Insane," approved February 15, 1848, be and the same is hereby filled by the word "seven," so that each assistant allowed by the clerk and accompanying the sheriff in conveying patients to the hospital for the insane, shall be allowed seven cents per mile for going and returning, to be computed and paid as provided by the same section of the act aforesaid.*

SEC. 2. That the boards doing county business in the several counties be, and they are hereby authorized to make such additional allowance relative to the expenses of conveying insane persons to the hospital for the insane, as shall to them seem just and reasonable.

SEC. 3. This act shall take effect and be in force from and after its passage.

## CHAPTER LXXIX.

AN ACT to exempt the county of Washington from the force and operation of the 61st section of the act entitled "An act to provide for the continuation of the construction of all or any part of the public works of this State by private companies, and for abolishing the board of Internal Improvements, and the offices of Fund Commissioner and Chief Engineer," approved January 28, 1842.

(APPROVED DECEMBER 30, 1848.)

SECTION 1. The 61st section, chapter 1, General Laws 1842, authorizing counties to subscribe stock and levy tax to continue public works, repealed as to Washington county—*Provided* no previous subscription or contract made be effected by this act.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the sixty-first section of the act entitled, "an act to provide for the continuance of the construction of all or any part of the public works of this State by private companies, and for abolishing the board of Internal Improvements and the offices of Fund Commissioner and Chief Engineer," approved January 28th, 1842, be and the same is hereby repealed, so far as it relates to the county of Washington: Provided however, This act shall not be so construed as to release or in any way affect any subscription made, or any contract entered into by said county previous to this time.*

SEC. 2. This act shall take effect and be in force from and after its passage.

## CHAPTER LXXX.

AN ACT authorizing Justices of the Peace in Harrison county to perform the duties of Coroner in certain cases.

(APPROVED JANUARY 1, 1849.)

SECTION 1. The body of any dead person being found, the nearest Justice of the Peace may act as Coroner—Justices to receive same fees and governed by same laws as Coroner in holding inquests.

SECTION. 1 *Be it enacted by the General Assembly of the State of Indiana, That whenever hereafter the body of any person may be*



found dead within the limits of the county of Harrison, it may and shall be lawful for the Justice of the Peace residing nearest the place where the body may be found, to act as Coroner: *Provided however*, That such Justice shall receive the same fees and be governed in all respects by the laws now in force regulating the duties of Coroners in holding inquests.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER LXXXI.

AN ACT in relation to the jurisdiction of Justices of the Peace in Wayne county.

(APPROVED JANUARY 16, 1849.)

SECTION 1. Justices of the Peace to have jurisdiction in all cases in which the debt or cause of action originated in the township where elected

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter each Justice of the Peace in Wayne county, in addition to their present jurisdiction, shall have jurisdiction in all cases in which the debt was contracted [or] the cause of action originated in the township in which such Justice shall have been elected.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LXXXII.

AN ACT to repeal an act entitled, "an act to repeal the fourth section of the forty-seventh chapter of the Revised Statutes, so far as relates to Elkhart county.

(APPROVED JANUARY 16, 1849.)

SECTION	SECTION
1. Suit to be entered in township where defendant resides.	2. Acts revised.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled "An act to repeal the fourth section

of the forty-seventh chapter of the Revised Statutes so far as relates to Elkhart county," approved February 15, 1848, be and the same is hereby repealed.

SEC. 2. All laws and parts of laws repealed by said act are hereby revived and declared to be in full force.

SEC. 3. This act to take effect and be in force from and after its passage, and it is hereby made the duty of the Secretary of State to cause a certified copy of this act to be filed in the clerk's office of Elkhart county.

## CHAPTER LXXXIII.

AN ACT regulating the jurisdiction of justices of the peace in Jefferson, Rush, Union, and Jennings counties.

[APPROVED JANUARY 16, 1849.]

SECTION	SECTION
1. All persons to answer civil process from a justice of the peace in the township	where they reside, or the liability was contracted.
	2. In what counties to be in force.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That each and every person shall be held to answer any process issued against him by a justice of the peace in a civil matter, in any township in the county [where] he may actually reside, or in the township where the debt or liabilities was contracted or accrued.

SEC. 2. The provisions of this act to extend only to Jefferson, Rush, Union and Jennings counties.

SEC. 2. This act to take effect and be in force from and after its passage.



## CHAPTER LXXXIV.

AN ACT to define the jurisdiction of justices of the peace in the several counties therein named.

[APPROVED JANUARY 16, 1849.]

## SECTION

1. Exclusive original jurisdiction in certain criminal cases.
2. How take jurisdiction.
3. Appeals, change venue, &c.

## SECTION

4. To summon witnesses and compel attendance.
5. Prosecuting Attorney where requested by aggrieved party, to prosecute, and his fees.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That from and after the passage of this act, the justices of the peace within and for the counties of Madison, Hancock, Randolph, Carroll, Clinton, Delaware, Martin, Daviess, Shelby, Putnam, Greene, Switzerland, Ohio, Fountain, Dearborn, Tippecanoe, Ripley, Grant, White, Franklin, Brown, Knox, Blackford, Bartholomew, Jefferson, Elkhart, Marion, Jennings, Adams, Wells, Gibson, Owen, Montgomery, Monroe, Parke, and Hamilton, shall have and possess exclusive original jurisdiction in their respective counties in all criminal cases, enumerated, referred to, and specified in the first section of an act entitled "An act to extend the jurisdiction of justices of the peace in certain criminal cases," approved February 16, 1848, except in the offences described in sections 64, 93, 95, 99, 102, 103, and 110, of article two chapter fifty-three of the Revised Statutes of 1843, and said justices shall, in all things, be governed by the provisions of the act last aforesaid, which are not inconsistent with this act.

SEC. 2. And the said justices of the peace in said counties shall, on complaint under oath, or on view to take jurisdiction of all such offences.

SEC. 3. In all cases, the justice of the peace before whom such cause may be pending, shall, in all things be governed by the laws now in force, granting appeals, changes of venue, continuances, and recognizing, so far as the same may be applicable.

SEC. 4. When any of the offences specified in the acts to which this act refers shall have been committed, and the proper witnesses shall fail or refuse to make complaint, it shall be the duty of the acting justice of the peace of the proper township nearest to where such offence may have been committed, to summon such witness or witnesses to appear before him and testify concerning such offence as well before as after the issuing of a warrant for the arrest of the offender, and the powers and duties of circuit courts to compel the attendance of witnesses before the grand juries, are hereby extended to justices of the peace.

SEC. 5. The aggrieved party may send for the Prosecuting Attorney of the proper county, whose duty it shall be to prosecute such cause, and upon conviction, shall be allowed two dollars and fifty cents, to be paid by the party convicted.

## CHAPTER LXXXV.

AN ACT to amend an act extending the jurisdiction of justices of the peace in certain criminal cases, approved Feb. 16, 1848.

[APPROVED JANUARY 13, 1849.]

SECTION 1. Justices of the peace in Decatur county to have exclusive jurisdiction in certain criminal cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the provisions of the ninth section of the above recited act, be and the same are hereby extended to the county of Decatur.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER LXXXVI.

AN ACT relative to the jurisdiction of justices of the peace in criminal cases.

[APPROVED JANUARY 12, 1849.]

SECTION 1. Jurisdiction extended to all offences for retailing without license, and against the election laws.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the provisions of an act entitled "an act to extend the jurisdiction of justices of the peace in certain criminal cases," approved February 16, 1848, are hereby extended to every offence for retailing or selling spirituous liquors with license in any county in this State, and to all offences against the election laws in this State.

SEC. 2. This act shall be in force from and after its passage.



## CHAPTER LXXXVII.

AN ACT to equally distribute the local and general laws of this State

[APPROVED JANUARY 16, 1849.]

SECTION	SECTION
1. Persons entitled to either general or local laws to receive a copy of each.	2. County treasurers to receive a copy of each.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That those persons now entitled to either the general or local laws of this State, be and the same are hereby entitled to one copy of each law.

SEC. 2. County treasurers of this State shall each be entitled to the same privilege.

SEC. 3. This act to take effect and be in force from and after its passage.

## CHAPTER LXXXVIII.

AN ACT to authorize the Secretary of State to send an additional number of copies of the laws of the State to the county of Jay.

(APPROVED JANUARY 4, 1849)

SECTION	SECTION
1. Secretary of State to send twelve additional copies of laws to Jay county.	2. Laws of each session from 1843 to the present.
2. Secretary of State to send twelve copies	3. The clerk of the county to distribute the laws.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the Secretary of State in the annual distribution of the laws of the State of Indiana as required by sections seventy-two and seventy-three of chapter six of the Revised Statutes of 1843, to send to the county of Jay twelve copies in addition to the number now required to be sent to said county.

SEC. 2. It shall be the duty of the Secretary of State to send in the same manner twelve copies of the laws of each session of the General Assembly, from 1843 to the present session, to the aforesaid county.

SEC. 3. The clerk of said county, as soon as the laws aforesaid are received by him, shall forthwith distribute the same according

to the laws now in force, and the residue, if any, he shall distribute to the treasurers of the townships of said county.

SEC. 4. This act to take effect and be in force from and after its passage.

## CHAPTER LXXXIX.

AN ACT amendatory of an act, entitled "*An act to establish a Levee from the town of Vincennes through the lower Prairie near the Wabash River to the Grand Coulee,*" approved Feb. 2, 1833.

[APPROVED JANUARY 17, 1849.]

SECTION	SECTION
1. Amount expended to be a lien on lands, and how enforced.	2. Sales not subject to appraisement--terms of sale.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the fourth section of an act, entitled "*An act to establish a levee from the town of Vincennes, through the lower Prairie near the Wabash River to the Grand Coulee,*" approved February 2d, 1833, be, and the same is so amended that the amount expended by the commissioners, or a majority of them, appointed for the purpose of constructing and keeping up of the Levee in said fourth section mentioned in front of, or through each tract of land in said lower Prairie, shall be a lien upon such tract of land, and such lien may be enforced by said commissioners, or a majority of them, or their successors, [by] bill in Chancery, and in accordance with the laws now in force or hereafter to be in force regulating the practice in Chancery.

SEC. 2. That all sales on real or personal property authorized by this act, and [by] the act to which this is an amendment, shall be without appraisement or valuation and for cash to the highest and best bidder.

SEC. 3. This act shall take [effect] and be in force from and after its passage, and shall be taken and construed in all courts of justice a public act, as also shall the act to which this act is an amendment.



## CHAPTER XC.

## AN ACT to amend article 2 of chapter 42 of the Revised Statutes of 1843.

(APPROVED JANUARY 16, 1849.)

SECTION 1. For demands against owner, master, or agent of boats or vessels for injuries and torts, lien to attach.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That article two of chapter forty-two of the Revised Statutes of 1843 be, and the same is hereby, so amended as to embrace within its remedial provisions all demands that may hereafter arise in favor of any person and against any owner, master, or agent of any boat or vessel, for any wilful or negligent act, which would, by the rules of the common law, subject such owner, master, or agent, to an action of trespass, or trespass on the case; that a lien shall attach upon any and every such boat or vessel, at any time when the same may be found within the jurisdictional limits of the State of Indiana, in like manner as is provided in said article respecting debts contracted as therein mentioned; and that all such demands for injuries and torts aforesaid may be embraced, in all respects, agreeably to the mode prescribed in said article, &c.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER XCI.

## AN ACT to prevent the sale of spirituous liquors in Dalton township, Wayne county.

(APPROVED JANUARY 11, 1849.)

SECTION	SECTION
1. Penalty for selling, except in certain cases.	2. Penalty for selling or giving to intoxicated persons.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That if any person or persons shall sell, within the township of Dalton, in Wayne county, in this State, any spirituous liquors to be used for any other than scientific or medicinal purposes, except

the same is sold or given under the directions of a regular practicing physician, such person or persons so offending shall, upon conviction thereof before any justice of the peace of said township on presentment, forfeit and pay to the State of Indiana any sum not less than two, nor more than twenty dollars.

SEC. 2. Every person who shall, within the township limits of said township sell or give any spirituous liquors to any person in a state of intoxication, or to any person who is in the habit of becoming intoxicated, shall be liable to the penalties prescribed in the foregoing section of this act.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER XCII.

## AN ACT more effectually to prevent the retailing of Spirituous Liquors in certain counties therein named.

(APPROVED JANUARY 16, 1849.)

SECTION	SECTION
1. Sale prohibited in certain counties, unless majority of voters assent.	3. Act continued in force.
2. Repealing clause.	4. Penalty for selling liquor.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That an act to authorize the people of the several townships of the several counties to prohibit the retailing of spirituous liquors, approved January 28, 1847, be and the same is hereby so changed, altered and amended that hereafter no license or permit shall be granted to any person or persons, body politic or corporate, in the counties of Decatur, Ripley, Jefferson, Dearborn, Henry, Ohio, Union, Parke, Whitley, and Huntington, to retail spirituous liquors, unless the majority of the voters who shall cast their votes at the election designated in the act to which this is an amendment, shall signify their assent thereto, by endorsing in writing in and upon their ticket the word "License."

SEC. 2. So much of the act to which this is an amendment, as authorizes the granting of a license or permit, unless a majority of the voters of the counties herein named, shall endorse in writing in and upon their tickets, the words "No License," be and the same is hereby repealed and a license or permit shall only issue when a majority of the voters shall endorse in writing, upon their tickets the word "License," as above provided, and no license or permit shall ever hereafter be granted in the counties herein named, until a majority of the voters shall assent to the same, as above provided.



SEC. 3. That all and every part of the act to which this is an amendment, is hereby continued in full force and effect and made applicable to this act, except so much of said act as is by this act repealed.

SEC. 4. Should any person or persons not having a lawful license or permit, so to sell by retail any spirituous liquor, contrary to the true intent and meaning of this act, such person or persons shall be subject to indictment in the Circuit Court of the proper county, and on conviction, may be fined in any sum not less than two nor more than twenty dollars.

SEC. 5. This act shall take effect and be in force from and after its passage and publication in the Indiana State Journal, and it is hereby made the duty of the Secretary of State to have a copy of said act published, as soon as the same can be done, any act or law to the contrary notwithstanding.

### CHAPTER XCIII.

AN ACT to amend an act entitled "An act to authorize the people of the several townships of the several counties to prohibit the retailing of Spirituous Liquors," approved January 28, 1847," so ar fas relates to the county of Wabash.

(APPROVED JANUARY 16, 1849.)

#### SECTION

1. How voters may endorse tickets.
2. Officers of elections and County Auditor to certify, and to whom.

#### SECTION

3. County Board how governed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the vote taken in the county of Wabash in conformity with the second section of the act above mentioned, each voter may endorse on his ticket the words "License," or "No License."

SEC. 2. If a majority of all the votes so endorsed given at any such election in the county of Wabash shall be endorsed with the words "No License," it shall be the duty of the officers of such election forthwith to certify that fact to the proper county Auditor in writing under their hands, whose duty it shall be to lay the same before the board doing county business in the said county at their next succeeding term.

SEC. 3. That the board doing county business in said county shall be governed by the act to which this is an amendment in car-

rying out the obvious intent and meaning thereof, so far as the same does not conflict with this act.

SEC. 4. This act to be in force from and after its passage, and a certified copy thereof filed in the clerk's office of Wabash county, and it is hereby made the duty of the Secretary of State to forward a certified copy of this act to the Clerk's office aforesaid immediately.

### CHAPTER XCIV.

AN ACT to prevent the sale of spirituous liquors in posey township, in the county of Rush.

(APPROVED JANUARY 16, 1849.)

#### SECTION.

1. Shall not be sold in Posey township.

#### SECTION.

2. Penalty for selling.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter it shall not be lawful for any person or persons to sell or barter any spirituous liquors, within the limits of Posey township, in the county of Rush; except for medicinal or mechanical purposes.

SEC. 2. Any person or persons violating the provisions of this act, upon conviction thereof, on indictment in the proper circuit court, shall be fined for each violation, in any sum not less than two, nor more than twenty dollars.

SEC. 3. This act shall be in force from and after its passage, and shall be taken a public act.



## CHAPTER XCV.

## AN ACT directing the Secretary of State to make patents for certain Michigan Road lands.

(APPROVED JANUARY 16, 1849.)

## SECTION.

1. Patents to issue to certain persons therein named for certain lost certificates.

## SECTION.

2. Title of Patentees as to right of others.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Secretary of State be directed to make to Calvin Fletcher, William H. Morrison, John H. Simpson, Evans Rogers, and Charles Watrons, patents for the following described tracts of Michigan road lands, the original certificates of which having been lost or mislaid, and they being the legal owners of said certificates, namely: Certificates No. 1522, for north half of fractional north half east of Michigan road of section ten, of lands selected in Indian country, containing one hundred and fifty-seven acres and fifty-two hundredths of an acre.

Certificate, No. 1523, for south half of fractional south fraction east of Michigan road of section nine, of lands selected in the Indian country, containing one hundred and fifty-seven acres and fifty-two hundredths of an acre.

Certificate, No. 1528, for the south half of the south-west fraction west of Michigan road of section number nine, of lands selected in the Indian country, containing six acres and forty-eight hundredths.

Certificate, No. 1526, for north half of south fraction east of Michigan road of section nine, of lands selected in Indian country, containing one hundred and fifty-seven acres and fifty-two hundredths of an acre.

Certificate, No. 1529, for north half of north-west fraction west of Michigan road of section number ten, of lands selected in the Indian country, containing six acres and forty-two hundredths of an acre.

Certificate, No. 1530, for the south half of the north-west fraction west of Michigan road of section number ten, of lands selected in the Indian country, containing six acres and forty-two hundredths of an acre.

SEC. 2. It is hereby expressly provided that the persons named in the first section of this act shall not by virtue of this act have any greater or better legal right to the land therein described than if this act should never have passed, so far as the same relates to the rights of others, and any and all legal or equitable rights of any person whatever are hereby declared to be unaffected by the passage of this act.

SEC. 3. This to be in force from and after its passage.

## CHAPTER XCVI.

## AN ACT in relation to Paupers in the county of Dearborn.

[APPROVED JANUARY 16, 1849.]

## SECTION.

1. County Board to make no allowance for paupers unless removed to the asylum.  
2. Trustees of the several townships to make allowance for paupers until removed to asylum.

## SECTION.

3. The Trustees in making allowances how governed.  
4. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter no allowance for the support of paupers shall be made by the county Board of Dearborn county who are not removed to the poor asylum of said county.

SEC. 2. It shall be the duty of the Board of Trustees of the several townships in said county, to make allowances for the support of paupers in their respective townships, until they are removed to the county asylum.

SEC. 3. The Board of Trustees in the several townships in the county aforesaid, in making such allowances for the support of paupers shall be governed by the law now in force governing the action of the county Board in similar cases.

SEC. 4. All laws conflicting with the provisions of this act are hereby repealed so far as the county of Dearborn is concerned.

SEC. 5. This act to be in force from and after its passage.



## CHAPTER XCVII.

## AN ACT authorizing the construction of Plank Roads.

(APPROVED JANUARY 15, 1849.)

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| <p>SECTION</p> <ol style="list-style-type: none"> <li>1. Articles of association, when and where recorded.</li> <li>2. Directors how elected, &amp;c.</li> <li>3. Directors to determine the manner of construction.</li> <li>4. How located—County Board authorized to consent to location on State and county roads, &amp;c.</li> <li>5. Company may take releases and conveyances—when consent of probate court necessary.</li> <li>6. May enter upon lands to make surveys, &amp;c.</li> <li>7. Owner of lands refusing to relinquish—how to proceed.</li> <li>8. Owner—a minor, insane or out of county—how to proceed.</li> <li>9. Owner of materials refusing to contract—how to proceed.</li> <li>10. Road impassable one year—quo warranto may issue—no tolls collected when out of repair.</li> <li>11. Stock to be paid, when, how, and under penalty of forfeiture—30 days notice to be given.</li> </ol> | <p>SECTION</p> <ol style="list-style-type: none"> <li>12. Stock transferable and how—Directors may increase capital stock.</li> <li>13. When tolls may be levied and rates of.</li> <li>14. Corporations shall cease if road not commenced in two years or not finished in 4 years—Directors to report to Secretary of State.</li> <li>15. May make by-laws—Penalty for violation thereof.</li> <li>16. Penalties against toll-gatherers and how collected.</li> <li>17. Fine of \$3, for fraudulently avoiding payment of tolls—how enforced—persons living on road not prevented passing between gates.</li> <li>18. Embezzlement of funds—how punished evidence of embezzlement.</li> <li>19. Property under execution—in favor of or against company, sold without valuation.</li> <li>20. May purchase real estate not exceeding one fifth capital stock.</li> <li>21. Title, rights, &amp;c., of associations.</li> <li>22. Directors individually liable for debts over and above solvent stock.</li> <li>23. Right to alter, amend, or repeal reserved.</li> <li>24. Declared a public act.</li> </ol> |
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SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any number of persons may form themselves into a corporation for the purpose of constructing and owning a plank road by complying with the following requirements: They shall unite in articles of association setting forth the name which they assume—the line of the route and the places to and from which it is proposed to construct the road—the amount of capital stock and the number of shares into which it is to be divided. The names and places of residence of the subscribers and the amount of stock taken by each shall be subscribed to said articles of association. Whenever the stock subscribed amounts to fifteen hundred dollars per mile of the proposed road, copies of the articles of association shall be filed in the office of the recorder of each county through which the road is to pass.

SEC. 2. Not less than three nor more than seven directors shall be elected by the stockholders of every such corporation, who shall hold their offices for one year and until their successors are in like manner elected. Notice of the first election for directors shall be given by two weekly publications in some newspaper printed on or near the route of the road.

SEC. 3. The directors may determine the particular manner of construction so as to secure and maintain a smooth and per-

manent road, the track of which shall be made of plank, or timber or other hard material so that the same shall form a hard and even surface.

SEC. 4. The directors of said company shall proceed to locate and lay out said road, and may, with the consent of the Board of County Commissioners of the county, locate the same over and upon any State or county road or other public highway, and thereupon such State or county road or other public highway, or such portion thereof as may be so occupied and appropriated by said company, shall be and become the property of said company for the purpose of making and maintaining said road and the gates and toll houses thereon; and the Boards of County Commissioners of the several counties of this State are hereby authorized to give their consent to the appropriation and occupation of any such State or county road or other public highway, over and upon which any such company may locate any such road.

SEC. 5. Any such company may take releases and conveyances of the necessary lands of any and all persons over whose lands the road may be located, and any such releases or conveyance may be made and executed by any infant, feme covert, guardian, executor or administrator, and shall be valid and effectual in law, by obtaining the consent of the proper probate court thereto.

SEC. 6. For the purpose of locating and constructing said road, it shall be lawful for such company, by their agents or persons in their employ, to enter upon any lands to make surveys and estimates, and to take from the land occupied by said road any stone, gravel, timber, or other materials necessary to construct said road and the bridges thereon.

SEC. 7. If any person owning lands over and upon which such road shall be located shall refuse to relinquish the same for the use of said road, and no satisfactory contract can be made by such company with such owner therefor, it shall be lawful for such company to give notice to some justice of the peace of the proper county, and such justice shall thereupon summon the owner of such land, if a resident of the county, to appear before him on a day to be named therein, and within ten days thereafter, and if the parties cannot then agree, said justice shall issue a venire for summoning before him a jury of three disinterested men of the county, to be selected by said justice, and such jury, after having taken an oath or affirmation faithfully and impartially to assess the damages, if any, shall view the lands upon which such damages are claimed, and shall determine the same, duly considering the advantages of said road to said owner, and shall make report thereof to said justice, whereupon he shall enter judgment upon such report, from which judgment [either party] may appeal to the circuit court.

SEC. 8. If the owner be a minor, insane person, or shall reside out of the county where such land may be, such justice shall cause three notices to be put up within the township where such lands are situated, of the time and place of summoning such jury to make



such appraisements, and if no person appears for such minor, insane person, or non-resident of the county, such justice shall appoint some disinterested person to act on behalf of such absentee, and shall then proceed as in other cases, and in all cases costs shall be awarded in the discretion of the jury.

SEC. 9. In case such company shall require for the use of said road any stone, gravel, or other material, from the land of any person adjoining on or near said road, and such company cannot contract for the same with the owner thereof, such company may proceed in like manner to have the value of such materials assessed, as is above provided for assessing the value of lands; and in every such case of lands and materials such company may take possession of and use the same, immediately after having paid such justice, for the use of the owner of such land or materials, the sum, if any, which may have been assessed therefor; *Provided*, that such jury, in assessing such damages, shall not take into consideration the advantages of the road to the owners of such materials.

SEC. 10. If any such road, after its completion, or any part thereof, shall be suffered to be out of repair so as to be impassable for the space of one year, unless when the same is repairing, said company shall be liable to be proceeded against by quo warranto—and if such company shall suffer the road to be out of repair to the hindrance or delay of travellers for an unreasonable length of time, they shall have no right to collect tolls thereon until the same is repaired.

SEC. 11. It shall be lawful for the directors to require payment from subscribers to the capital stock of the sums subscribed by them, at such times and in such proportions, and on such conditions as they shall see fit, under the penalty of the forfeiture of their stock, and of all previous payments thereon, or under such other penalty or forfeiture as such company may by by-law prescribe; and they shall give notice of the payments thus required, and of the time and place when and where, at least thirty days previous to the time when such payment is required to be made, in a newspaper printed in the county, or some one of the counties in which such road may be located, or if no newspaper is printed in such county, then by posting up three written or printed notices at the most conspicuous places near where the road is proposed to be located, and at the court house of said county.

SEC. 12. The shares of the corporation shall be deemed personal property, and shall be transferable in the manner prescribed by the by-laws; and any person becoming a shareholder by assignment of stock shall succeed to all the rights and liabilities of his assignor, and the directors may provide for any increase of the capital stock that they may deem advantageous to the corporation; *Provided*, the whole stock shall not exceed three thousand dollars per mile of the road.

SEC. 13. Whenever five consecutive miles of such road shall have been completed, or if the whole of such road shall be less than

five miles in length, then, in such case, when the whole of such road shall be completed, the directors of such company may erect toll gates at such points and at such distances from each other as they may deem proper, and exact toll from persons traveling on the road, not exceeding the following rates: for every sled, sleigh, carriage, or vehicle drawn by one animal, one and one half cent per mile, and for every animal in addition thereto one half cent per mile; for every horse and rider or led horse one cent per mile; for every score of sheep or swine two cents per mile; and for every score of neat cattle, mules or asses five cents per mile. Persons going to and from funerals, and soldiers of the United States or of this State, while in actual service, shall be exempt from toll.

SEC. 14. Every such company or association shall cease to be a body corporate, if within two years from the time of filing a copy of their articles of association with the county recorder they shall not have commenced the construction of their road, and expended at least ten per cent. of their capital stock, and if within four years from such time such road shall not be completed; and within six months after such road shall have been completed, the directors shall report such fact, together with the cost of its construction, to the Secretary of State.

SEC. 15. Such company may make, enact, and publish any and all ordinances and by-laws which they may deem proper, not inconsistent with the laws of this State, in order to regulate the travel upon such road, and the rules to be observed by persons in meeting or passing with teams and vehicles, and all other matters which may be deemed for the welfare of such company. Any person violating any ordinance or by-law made by such company shall forfeit and pay to such company the sum of five dollars, to be sued for and collected by such company, in an action of debt before any justice of the peace of the county where the offender may be found.

SEC. 16. If any toll gatherer or gate keeper on said road shall unreasonably detain any person or passenger, after the toll has been paid or tendered, or shall demand or receive any greater toll than is by this act allowed, he shall, for every such offence, forfeit and pay a sum not exceeding ten dollars, to be recovered before any justice of the peace having jurisdiction, by the party aggrieved, within twenty days after the occurrence.

SEC. 17. If any person or persons using any part of such road shall, with intent to defraud such company, pass through any private gate or bars, or along any other ground near said road, to avoid any toll gate, or shall make any untrue statement as to the distance he or they may have traveled or intend to travel on the road, or shall practice any fraudulent means, and thereby lessen or avoid the payment of tolls, each and every person concerned in such fraudulent practice shall, for every such offence, forfeit and pay to such company the sum of three dollars, which shall be recovered in the name of such company in an action of debt before any justice of the peace of the county where the offender may be found; *Pro-*



vided, Nothing herein contained shall prevent persons residing on or near the line of said road from passing thereon between the gates, about their premises, for common and ordinary business.

SEC. 18. If any agent, treasurer, toll gatherer, or other person to whose possession or custody any of the moneys of such company may come or be, shall convert any of said moneys to his own use, or make way with the same in any way, he shall be deemed guilty of embezzlement, and shall be punished upon indictment found, in the same manner and to the same extent as if he had stolen the amount so embezzled. The neglect or refusal of any such person to pay over on demand to such company or their agent any moneys in his custody or possession belonging to such company shall be deemed *prima facie* evidence that he has embezzled the same.

SEC. 19. Upon execution issued upon any judgment or decree, rendered either in favor of such company against any person or persons, or in favor of any person or persons against such company, property shall be taken and sold for the highest and best price it may bring, and without any valuation or appraisalment.

SEC. 20. Such company may purchase and hold lands to the value of not exceeding one fifth of their capital stock, over and above such lands as may be necessary in the location and construction of such road.

SEC. 21. Associations formed under the provisions of this act shall, from the time their articles are filed with the Auditor aforesaid, be corporations known by the name they may assume in their articles of association, and except as in this act is otherwise provided, shall possess the general powers and be subject to the general restrictions and liabilities contained in the second article of chapter thirty-two of the Revised Statutes of 1843.

SEC. 22. The Legislature reserves the right to alter, amend, or repeal this act when it shall be deemed conducive to the public good.

SEC. 23. The directors of any company that may be formed under the provisions of this act shall be liable in their individual property for any debt they may contract in the name of any company as aforesaid, over and above the solvent stock of any company formed as aforesaid.

SEC. 24. This act shall be deemed and taken to be a public act, and shall be liberally construed, and shall take effect and be in force from and after its passage.

## CHAPTER XCVIII.

AN ACT to amend an act entitled "an act to authorize the construction of plank or coal roads," approved 16th February, 1848.

[APPROVED JANUARY 10, 1849.]

### SECTION

1. Five persons may form association—how governed—county board to authorize location on State and county roads—no toll to be charged unless road in good

### SECTION

repair—part of act repealed—books of company *prima facie* evidence, &c.  
2. Declaring acts public.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled "an act to authorize the construction of plank or coal roads," approved 16th February, 1848, be and the same is hereby amended as follows: First. Any five or more persons may voluntarily associate themselves together for the purpose of constructing a turnpike road; such association shall have power to construct a turnpike, or turnpike and plank road, as they may at that time deem best, and shall possess all the powers and capacities, and be entitled to all the privileges and immunities specified in said act, and shall in all things be governed thereby, except as may be otherwise herein provided. Second. The board doing county business in any county where it may be desired to construct any road contemplated in this act, or the act to which it is amendatory, is hereby authorized to permit any such association or road company to construct their road over, upon and along any State or county road in said county, and such association or road company may erect and keep up toll gates thereon, and collect tolls in the manner and to the extent provided in the act aforesaid.—Third. It shall not be lawful for any such association to charge or receive any toll unless their road shall be at the time in good repair. Fourth. So much of said act as allows the board doing county business to fix the tolls of any road company, and section nine (9) of the act entitled "an act to authorize the formation of of voluntary associations," approved 27th January, 1847, so far as this act, or the act to which it is amendatory is concerned, or any association formed thereunder, are hereby repealed. Fifth. The books of said company shall be *prima facie* evidence of the truth of the statements therein, and any member thereof shall be a competent witness to identify their books.

SEC. 2. This act, and the act to which it is amendatory, are hereby declared to be public acts, and shall be in force from and after its passage.



## CHAPTER XCIX.

## AN ACT to prevent the poisoning of fish in the county of Green.

[APPROVED JANUARY 11, 1849.]

## SECTION 1. Poisoning prohibited and penalty.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That any person or persons who shall by the use of Coctus Indicus, Henbane, or any poisonous drug, poison fish in the waters of Green county, shall be liable to be indicted in the circuit court, and upon being duly convicted shall be fined in any sum not exceeding one hundred dollars, nor less than five dollars.*

SEC. 2. This act to be in force from and after its passage.

## CHAPTER C.

## AN ACT defining the duties and fixing the compensation of the prosecuting attorney of Hancock county.

(APPROVED JANUARY 16, 1849.)

## SECTION

1. Fees in criminal cases.
2. Duties in relation to school funds and county business and compensation therefor.

## SECTION

3. Other duties assigned by county board, and compensation therefor.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the prosecuting attorney for the county of Hancock shall, on all prosecutions for felony, on conviction, on plea of not guilty, be allowed a fee of ten dollars, on plea of guilty six dollars, and on all convictions in the circuit court, for crimes less than felony, on pleas of not guilty, six dollars, on pleas of guilty five dollars, to be collected and paid as other costs.*

SEC. 2. When necessary, and so directed by the board of county commissioners of said county, it shall be the duty of such prosecuting attorney to examine into and report to said board the condition of any or all of the common school funds of said county, or county business, and when ordered by said board such prosecuting attorney shall commence and prosecute or defend any suit or suits in which such funds or said county may be interested, for which said board shall allow such attorney such compensation as to them shall

seem just and right for each of such duties by said board, required of such prosecuting attorney as in this section specified.

SEC. 3. Said county board may from time to time, for the duties required of such prosecuting attorney, and which are not specified in the second section of this act, make to such prosecuting attorney such allowances as to them shall seem just and right, not to exceed in the aggregate fifty dollars per annum.

SEC. 4. This act to take effect and be in force from and after its passage.

## CHAPTER CI.

## AN ACT to provide for the election of Prosecuting Attorneys in the 4th and 8th Judicial Circuits.

(APPROVED JANUARY 16, 1849.)

## SECTION

1. When and how elected, and term of office.
2. Clerks of courts to certify, and Governor to commission.
3. Vacancies how filled.

## SECTION

4. Duties and compensation.
5. Who eligible to the office.
6. Repealing clause.
7. When extended to certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the qualified voters of the several counties in the 4th and 8th judicial circuits of this State, shall elect one prosecuting attorney for each of said circuits, on the first Monday in August next, and every three years thereafter, who shall be commissioned by the Governor, and hold their offices for the period of three years, and until their successors are elected and qualified. The provisions of this act shall not extend to the county of Cass.*

SEC. 2. The clerks of the circuit courts in said judicial circuits shall certify to the Secretary of State immediately after the votes may be compared in the said respective counties, the number of votes given to each person for said office; and it shall be the duty of the Governor within thirty days to make out a commission to each of the persons who, from the returns, shall have received the highest number of votes in said several circuits.

SEC. 3. Upon a vacancy happening in said office in either of said circuits, from any cause, the Governor shall appoint some suitable person to fill the same until the next annual election, when one shall be elected by the qualified voters of said several circuits, who shall hold his office for the term of time mentioned in the first section of this act.

SEC. 4. The said prosecutors so elected shall be governed by



the same laws, discharge the same duties, and receive the same compensation as is now provided by law for prosecuting attorneys: *Provided*, That nothing herein contained shall be so construed as to prevent the present prosecuting attorneys from holding their said office, until the prosecuting attorneys created by this act shall be elected and qualified: *Provided further*, That the prosecuting attorneys who may be elected under the provisions of this act shall not be entitled to any pay or salary from the State of Indiana.

SEC. 5. No person shall be elected to the office of prosecuting attorney, who shall not have a license to practice law in the circuit courts of their respective circuits.

SEC. 6. That the act providing for the election of prosecuting attorneys in each county, approved January 27, 1847, be and the same is hereby repealed, so far as the same relates to the circuits herein before named, and all laws and parts of laws, contravening the provisions of this act are hereby repealed, so far as the same relates to the circuits herein before named.

SEC. 7. That the provisions of this act shall not extend to the counties of Posey, Perry, and Crawford, in the fourth judicial circuit, and that the same shall not extend to the county of Wabash, in the eighth judicial circuit, until after the expiration of the term of service of the present incumbents in said counties of Posey, Perry, Crawford, and Wabash.

SEC. 8. This act shall be in force from and after its passage; and it is hereby made the duty of the Secretary of State to forward to each of the clerks of said judicial circuits, a certified copy of this act, except the clerks of the counties mentioned in the 7th section of this act.

## CHAPTER CII.

AN ACT to amend an act entitled "an act to require certain statutes to be published in some newspaper at Indianapolis, and for other purposes," approved January 20, 1846.

(APPROVED JANUARY 17, 1849.)

SECTION 1. Laws to be published in two Newspapers at Indianapolis.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the aforesaid recited act be so amended, and is hereby declared to be so amended, as to require the Secretary of State to

cause the acts therein mentioned to be published in two newspapers printed and published at Indianapolis, instead of one.

SEC. 2. That this act shall take effect and be in force from and after its passage.

## CHAPTER CIII.

AN ACT explanatory of the act prescribing the manner of assessing and paying the taxes due upon the stock of individuals, in the Madison and Indianapolis Railroad Company, approved February 16th, 1848.

(APPROVED JANUARY 17, 1849.)

### SECTION

1. The law prescribing the manner of assessing and paying taxes upon stock in the Madison and Indianapolis Railroad repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled "an act prescribing the manner of assessing and paying the taxes due upon the stock of individuals, in the Madison and Indianapolis Railroad Company, approved February 16, 1848," be and the same is hereby repealed.

## CHAPTER CIV.

AN ACT relative to Railroads.

[APPROVED JANUARY 13, 1849.]

SECTION 1. Railroad Companies to allow other Railroads to cross their tracks—doing no damage to either.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all Railroad Companies chartered by this State shall allow and permit any and all other Railroad Companies to locate, construct, run, and operate their road across the track thereof, and this act is hereby declared to constitute a part of the charters of every Railroad Company hereafter granted, unless otherwise provided in the charter: *Provided*, That in crossing the track as aforesaid no unnecessary damage or injury shall be done to either Company.

SEC. 2. This act shall be in force from and after its passage.



## CHAPTER CV.

AN ACT to repeal an act, entitled "*an act reducing the fee for recording deeds in Delaware county,*" approved February 14, 1848.

[APPROVED JANUARY 15, 1849.]

SECTION 1. Act reducing fee for recording deeds repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the above entitled act be, and the same is hereby repealed, and the act repealed by the same revived.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CVI.

AN ACT to exempt the property of invalids from taxation.

[APPROVED JANUARY 15, 1849.]

SECTION 1. County Commissioners may exempt invalids owning not exceeding \$300 worth of property from payment of taxes.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Board of Commissioners in the several counties of this State are hereby vested with the discretionary power to exempt any invalid of their county, who may be unable to perform any labor, from the payment of any State, county, or other taxes whatever, unless the same shall own property to exceed the sum of three hundred dollars, in which case the excess over and above three hundred dollars only shall be taxed.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CVII.

AN ACT repealing the several acts exempting soldiers of the Mexican War from the payment of taxes.

[APPROVED JANUARY 11, 1849.]

SECTION 1. Act exempting soldiers of the Mexican War from payment of taxes repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all acts and parts of acts now in force, exempting reg-

ular or volunteer soldiers or officers who served in the war with Mexico, from the payment of any tax or taxes, be, and the same are hereby repealed, so far as relates to the taxes of the year 1849, and thereafter.

SEC. 2. This act shall be in force from and after its publication in the Indiana State Journal and Sentinel.

## CHAPTER CVIII.

AN ACT to raise a Revenue for State purposes for 1849.

[APPROVED JANUARY 16, 1849.]

## SECTION

1. Amount to be assessed for State purposes.
2. Amount to be assessed for Benevolent Institutions.

## SECTION

3. Auditors and Treasurers not to keep separate accounts of assessments.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That for State purposes a tax of twenty-five cents on each one hundred dollars of the value of all property entered for taxation in the general list of taxables, and seventy-five cents on each poll subject by law to taxation be, and hereby is, authorized and ordered to be levied and collected for the current year 1849, and the same shall be assessed, levied, and collected according to law.

SEC. 2. That in addition to the above amounts there shall be assessed, levied, and collected on each one hundred dollars value of all property so entered for taxation as aforesaid, the following assessments, to-wit: The sum of one cent and seven and a half mills for the Indiana Hospital for the Insane; the sum of two cents and two and a half mills for the Asylum for the Deaf and Dumb; and the sum of one cent for the Institute for the Education of the Blind; and the Treasurer of State shall be required to set apart from the gross amount of revenue paid into the treasury for the year 1849 the sums contemplated in this section for said several purposes.

SEC. 3. It shall not be necessary for the several county auditors and treasurers, in the assessment and collection of the revenue contemplated in the second section of this act, to keep separate accounts of the assessments and collections for each purpose, but the same shall be placed and accounted for together as one item in the amount of revenue for said year.

SEC. 4. This act to be in force and take effect from and after its passage.



## CHAPTER CIX.

AN ACT to revise and consolidate the several acts of the General Assembly relative to laying out, opening, repairing, changing, and vacating public highways, and to the erection and repair of bridges, and to amend the same.

[APPROVED JANUARY 16, 1849.]

## SECTION

1. Mode of applying for change, location, or vacation of road.
2. Petition to Legislature to be signed by twenty-four freeholders, and to describe beginning, course, and termination of road.
3. Notice to be given.
4. Affidavit that the petition contains requisite number of signers.
5. Commissioners to meet at the time and place designated by law.
6. Board to fill vacancies.
7. Compensation of commissioners.
8. Commissioners may employ surveyor and necessary chainmen and markers.
9. When commissioners shall report, the manner thereof, and proceedings on such report.
10. Like proceedings where commissioners are appointed by the Legislature.
11. Petitions to county board signed by twelve freeholders.
12. Like notice to be given as in application before Legislature.
13. Board to appoint three disinterested freeholders as viewers.
14. Viewers shall employ surveyor and necessary chainmen and markers.
15. Notice to be given to the occupants of land through which road passes.
16. When the viewers shall make report, and in what manner.
17. No objection made road to be opened.
18. Persons aggrieved may remonstrate, and in what manner, and proceedings thereon.
19. Notice to be given by party remonstrating, review, damage may be assessed.
20. When damages are assessed, the proceedings thereon.
21. Damages unreasonable may be set aside, and a review ordered.
22. Freeholder of the township objecting that the road is not of public utility other viewers to be appointed.
23. Road not of public utility shall not be opened unless at expense of petitioners.
24. Highway not to be opened unless damages are paid, (where the same are assessed.)
25. Private road authorized in certain cases, and the manner of applying therefor.
26. Viewers in case of application for private roads to proceed as in cases of public highways.

## SECTION

27. Private road to be kept in repair by the person applying therefor.
28. On application for private road damages may be assessed, and being paid, road may be opened.
29. Swinging gates allowed on county and private roads, and penalty for not keeping the same in repair.
30. Width of roads, and board shall define and specify.
31. Highways established on county line how opened and repaired.
32. Persons wishing to enclose land may petition to turn the same in certain cases.
33. In such cases viewers appointed and their duties.
34. The notice to be given.
35. Report being satisfactory change ordered, highway opened and improved, old route to be vacated.
36. Any twelve freeholders may petition for vacation of highways.
37. Notice to be given.
38. Petition to be read, and no remonstrance, to be vacated.
39. If remonstrance, viewers to be appointed, their duties, order of board.
40. State or county roads may be changed.
41. Notice to be given, and proceedings thereon.
42. Viewers to report.
43. Order of the board if favorable expense of county.
44. If unfavorable petitioners to pay expense.
45. Alterations may extend from one county to another.
46. Proceedings thereon.
47. Petition where filed—notice—auditor's duty—time and place of meeting of viewers appointed by board—sheriff to notify—duty of viewers—their compensation.
48. Expense to be apportioned among the counties interested.
49. Remonstrance may be filed, and proceedings thereon.
50. Highway laid out through enclosed land occupant to be notified to remove fences.
51. Such occupant not bound to remove between first of April and November.
52. In certain cases occupant allowed a credit for removing fence on his road tax.
53. Occupant failing to remove supervisor may.
54. Time limited for opening highway, or it shall cease to be considered such.

## SECTION

55. Roads used for 20 years shall be deemed public highways.
56. Right of appeal reserved.
57. Duty of auditor in such cases.
58. Settlers upon public lands, and their rights under this act.
59. Bridges in certain cases may be ordered to be built by county Boards.
60. Special tax for such purpose may be assessed in certain cases.
61. Tax to be apportioned.
62. Board to receive and expend donations, and may allow credit on same for road tax.
63. Superintendents may be appointed to build bridges.
64. Superintendents' compensation, and shall take an oath.
65. Boards may enter contracts for building bridges.
66. Boards may authorize a toll to build bridges.
67. Board may purchase toll bridge.
68. Board may establish tolls on bridge so purchased.
69. Supervisors post up notices on bridge as to the manner of passing.
70. Penalty in such case for driving fast over a bridge.
71. Penalty for injuring bridge.
72. Board shall have care of bridges and highways, and their duties relative thereto.
73. Board may unite two or more districts for certain purposes.
74. On petition of a majority, Board may impose an additional tax.
75. May appropriate money out of county treasury towards improvements.
76. Voters of township to elect supervisors on first Monday in April.
77. In case of vacancy or failure to elect, auditor may appoint.
78. Notice to be made out of such appointment, and served by sheriff.
79. Failing to serve may discharge himself by paying six dollars.
80. Refusing to accept after elected may be indicted.
81. Supervisors duty, to take oath, to keep in repair public highway, to call out hands and receive road tax.
82. In certain cases supervisors to call out hands additional days.
83. Extra labor to be credited.
84. Supervisors to purchase implements to work highways.
85. Supervisors to erect guide posts.
86. Supervisors may enter upon adjoining lands for materials to construct or repair road.
87. Persons aggrieved may apply to Board for relief.
88. If damages to be paid out of the county treasury, but if not to pay expense.
89. Supervisor competent witness and not liable for costs in suits brought by him.
90. Shall call out hands at most suitable times.
91. Supervisors' duty, as to the work in his district, and disbursement of money belonging to district.

## SECTION

92. Successor to collect delinquencies.
93. Board to determine amount of compensation of supervisor.
94. Supervisor failing to work hands, or to do his duty liable to indictment.
95. Suffering highway to get out of repair supervisor liable to indictment.
96. Supervisors required to prosecute for penalties and forfeitures.
97. Persons aggrieved by supervisors may complain to Board.
98. Such person suing supervisor without making complaint to Board shall pay costs.
99. When labor and road tax is insufficient supervisor shall make another assessment.
100. Board may exempt in certain cases from tax or labor on roads.
101. Board may assess a road tax.
102. Road tax carried out in separate columns on duplicate.
103. Auditors duty in regard to tax list.
104. Persons charged with road tax may be allowed to work the same out.
105. Treasurers duty in regard to road tax.
106. If no road tax is assessed, supervisors to require inhabitants of district to work roads pro rata.
107. Notice required to be given of the time and place of working roads.
108. In case of emergency, shorter notice required.
109. Extra allowance to be made to those furnishing team.
110. Persons liable to work roads may commute the same.
111. Persons liable to work may employ substitute.
112. Persons appearing for the purpose of work, being idle, liable to forfeiture.
113. Liability of persons neglecting to work or furnish team.
114. Supervisors duty in such cases.
115. Penalty collected shall be set off against the assessment.
116. Occupant of lands on which road is obstructed, required to remove the same.
117. Trees removed from road shall belong to the owner of the land.
118. Persons liable for horse-racing or shooting across highway.
119. Persons injuring any construction for the improvement of road, liable to forfeiture.
120. Penalty for injuring or destroying guide post.
121. Penalty for obstructing highway or bridge.
122. Persons driving on the road, to keep to the right.
123. Board may in certain cases, assess a road tax.
124. Supervisors to let to the lowest bidder, road work, in certain cases.
125. Supervisors may remove drift in navigable streams, in certain cases.
126. Supervisors may erect foot-bridges.
127. Ten thousand copies of this act to be printed and distributed.



## SECTION.

128. Supervisor to preserve copy for use of the district.  
 129. Local laws in certain counties still in force.  
 130. Board authorized to have certain roads surveyed.

## SECTION.

131. Road tax to be worked out in the district where the land is situated.  
 132. This act not to apply to the streets and alleys in incorporated towns.  
 133. Hancock, Madison, and Warrick, exempted from the provisions of this bill.  
 134. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That application for the location, change, or vacation of highways shall be by petition.

*First*, For those running through more than one county, to the Legislature.

*Second*, For those confined to one county, to the Board of County Commissioners.

SEC. 2. All such petitions addressed to the Legislature shall be signed by at least twenty-four freeholders of each county in which the highway mentioned in such petition is proposed to run, twelve of whom shall be of the immediate vicinity thereof, and shall state the beginning, course, and termination of the highway proposed to run, be located or vacated, or of the change desired to be made.

SEC. 3. Notice of such intended application to the Legislature shall be given by written or printed notices, posted up in three public places in each county in the vicinity of the highway proposed to be located, changed or vacated, at least twenty days before such petition shall be presented: *Provided, however*, that the publication of such notice in a newspaper in any county for the space of twenty days shall dispense with any other notice thereof in such county.

SEC. 4. The affidavit of any person competent to testify, taken before any officer authorized to administer oaths, to the effect that such petition contains the requisite number of signers possessing the proper qualifications, and that the notice required has been duly given shall be taken as sufficient evidence thereof.

SEC. 5. Whenever the Legislature shall appoint commissioners to view, mark, and locate any highway, it shall be the duty of said commissioners to meet at the time and place designated by the law authorizing such location, and after having taken an oath or affirmation faithfully and impartially to discharge their duties, shall proceed to view, mark, and locate the highway for which they may have been appointed such commissioners.

SEC. 6. In case any such commissioner shall die, resign, or refuse to act, it shall be the duty of the Board of County Commissioners in the county where such death, resignation, or refusal shall have taken place to appoint some suitable person or persons to fill the vacancy or vacancies thereby occasioned.

SEC. 7. Each such commissioner shall receive the sum of one dollar for his services for every day he may necessarily be employed in locating any such highway, to be allowed by the Board of County

Commissioners in proportion to the distance which the same may run through each and every county, and to be paid out of the county treasuries of the respective counties.

SEC. 8. Such commissioners may employ a surveyor and the necessary number of chainmen and markers in the location of such highway, who shall severally receive a fair and reasonable compensation for their respective services to be allowed and paid in like manner.

SEC. 9. It shall be the duty of said commissioners to make their return or report of their proceedings within thirty days after the completion of the location of any such highway, giving the route and bounds thereof and its course and distance, and cause the same to be filed with the auditors of the several counties through which the said highway shall have been located; and it shall be the duty of said auditors within twenty days thereafter to record the said report in the record book of the county commissioners, and the same shall be publicly read at the next session of said Board.

SEC. 10. Like proceedings shall be had, as near as may be, in all cases where commissioners are appointed by the Legislature to change or vacate any highway.

SEC. 11. All petitions to the board of county commissioners for new highways shall be signed by at least twelve freeholders of the township or townships in which such highway is desired, three of whom shall be of the immediate neighborhood; and shall specify the proposed beginning, course, and termination of such proposed highway, together with the names of the owners and occupants of the land through which the same will probably pass.

SEC. 12. Like notice of such intended application shall be given in said township or townships, and proof thereof made, as specified in sections three and four of this act.

SEC. 13. When any such petition shall be presented to said board, they shall cause the same to be publicly read; and upon proof of notice as above shall appoint three disinterested freeholders of the county as viewers of such proposed highway.

SEC. 14. The said viewers or any two of them shall employ a surveyor and the necessary chainmen and markers, and after having taken an oath or affirmation faithfully and impartially to discharge their duties, shall proceed, at a time to be by them appointed, to view the route proposed; and if they shall deem it of public utility, shall lay out and mark such highway on the best ground that can be obtained, not running through any person's enclosure of one year's standing without the owner's consent, unless a good way cannot otherwise be had.

SEC. 15. The county commissioners shall require that notice of the laying out of any State or county highway shall be given to the occupants of the land through which the same may pass, and to the owners thereof, if known, or to their agents or attorneys, if residents of the county; which notice may be given by said commissioners or viewers or by the petitioners for such road.



SEC. 16. The said viewers, or a majority of them, shall make a report of their proceedings to the next ensuing session of said Board of Commissioners, describing therein the highway so laid out by routes and bounds and by its course and distance; and the same shall be publicly read before said board.

SEC. 17. If no objection be made to such proposed State or county highway, the said board shall cause a record thereof to be made and shall order the highway to be opened and repaired.

SEC. 18. If any person through whose land the same may pass shall feel aggrieved thereby, such person may at any time before final action of the board thereon set forth such grievances by way of remonstrance, and the said board shall thereupon appoint three disinterested freeholders, and assign a day and a place for them to meet.

SEC. 19. The said freeholders having had five days notice, to be given by the party remonstrating, shall meet and take an oath or affirmation faithfully and impartially to discharge the duties assigned them, and shall then or [on] any other day prior to the next session of said Board, to which the majority may adjourn, proceed to review the proposed highway and assess the damages, if any, which such objector or objectors will sustain from the same being opened and continued through his, her, or their lands, and shall report the same to the ensuing session of the Board.

SEC. 20. If a majority of the viewers assess and report damages in favor of the objector or objectors, and the Board shall consider the proposed highway or change to be of sufficient importance to the public, they shall order the costs and damages to be paid out of the county treasury; but if a majority report against the claim for damages, the objector or objectors shall pay the costs; and when payment of damages is made the highway shall be recorded and ordered to be opened and repaired.

SEC. 21. If it shall be made to appear to the board that the damages assessed are unreasonable, they may set aside such assessment and order a review, if they think best.

SEC. 22. If any one or more freeholders of any township or townships through which the proposed highway may run shall object to the same at the time and in the manner aforesaid, as not being of public utility, other viewers shall be appointed who shall proceed, on a day to be by them appointed, after having taken an oath or affirmation faithfully and impartially to discharge the duties assigned them, to examine the proposed highway, and shall make report to the said board at their next session, whether or not, in their opinion, the said highway will be of public utility.

SEC. 23. If a majority of the viewers last named shall report against the public utility of said highway, the same shall not be established unless the petitioners will open and maintain the same at their own expense; but if they report favorably thereto, the objector or objectors shall pay the costs of the review, and the highway shall be recorded and ordered to be opened and kept in repair.

SEC. 24. No highway shall be opened, worked, or used, until the damages assessed therefor shall be paid to the persons entitled thereto, or deposited in the county treasury for their use, or they shall give their consent in writing filed with the county auditor.

SEC. 25. Any person or persons, for his or their convenience, may have a private road laid out from or to any plantation, dwelling house, or public highway, on petition to the proper board, having given notice of his or their intention so to do, in the same manner as is hereinbefore required on applications for public highways, which said board shall cause the same to be publicly read, and if they think proper order a view of the same.

SEC. 26. The viewers shall be sworn and shall proceed as in the case of a public highway; and like notice shall be given to the occupants of the land through which it may pass, and to the owners thereof, their agents or attorneys.

SEC. 27. Said private road shall, at the discretion of said board, be recorded and declared a common road for the use and convenience of the individuals petitioning therefor or of the public, and shall be opened and kept in repair by the person or persons petitioning therefor.

SEC. 28. If the said private road shall be laid out through any person's land who shall object thereto, the damages shall be assessed as provided in case of objection to a public highway, which damages having been paid by the person or persons applying for said road, they may proceed to open the same agreeably to the order of said board.

SEC. 29. Any person may be permitted by said board to hang swinging gates on any county and private road, but he shall keep the gate or gates at all times in good repair, under the penalty of one dollar for every offence, and the like sum for every day any such gate shall remain out of good repair, to be recovered before any justice of the peace of the proper county, by any person prosecuting for the same, one-half thereof to the prosecutor, and the other half towards keeping said road in repair.

SEC. 30. All State highways hereafter laid out shall be not less than forty feet in width, all county roads shall be not less than 25 feet in width, and all private roads shall be not more than thirty feet wide, and it shall be the duty of the Board of Commissioners in their order establishing any road, to define and specify the width thereof within the limits aforesaid.

SEC. 31. All public highways established on a county line shall be opened and repaired the same as if the whole of any such highway were within the limits of each county.

SEC. 32. Any person or persons wishing to enclose land through which any State or county road may run, may petition the board for permission to turn such highway on his, her, or their own land, or on the land of any other person consenting thereto, at his, her, or their own expense.

SEC. 33. On the presentation of such petition three viewers shall



be appointed, who shall proceed to view the same and report the respective distances and situation of the ground of the established and the proposed highway.

SEC. 34. Like notice of the intention to file such petition and of the time of making such view shall be given as is required in other cases.

SEC. 35. If upon the report the board is satisfied that the public will not be materially injured by the proposed change, they shall order the same; and upon satisfactory assurance of the highway having been opened and improved equally convenient for travellers, the board shall vacate so much of the former highway as lies between the points of intersection, and record said report.

SEC. 36. Any twelve freeholders of any township or county may make application to the proper board by petition signed by them, for the vacation of any highway, as useless, and the repairing thereof as an unreasonable burthen.

SEC. 37. Like notice of such petition shall be given and like proof thereof made as is required in applications for the location of new roads.

SEC. 38. The said petition shall be publicly read on the first and second days of the session at which it is presented, and if no remonstrance in writing by twelve freeholders of the township or townships in which said road or any part thereof is situated, be made, then, on proof of the notice as provided in the next preceding section, the said board shall make an order that said road be vacated.

SEC. 39. If remonstrance in writing shall be made by twelve or more freeholders, the Board shall appoint viewers, who, after being sworn or affirmed, shall proceed to examine said road, and report as is provided in section twenty-three of this act; and if said viewers shall report against the utility of said road, the board shall make an order vacating the same, but if they shall report in favor of its utility, then it shall not be vacated.

SEC. 40. Any State or county highway may be changed in width or in location, by the Board of Commissioners, upon the petition of any twelve freeholders, or twenty-four householders of the township or county in which the part of such highway proposed to be changed shall lie.

SEC. 41. The like notice of such application shall be given, and proof thereof made as is provided in the third and fourth sections of this act, and the like proceedings shall be had thereon, except as is hereinafter provided.

SEC. 42. The viewers of such highways shall also report whether in their opinion the interest of the public shall require the proposed change.

SEC. 43. If such report shall be in favor of the proposed change, the board shall order the same to be made, and when the new highway shall be opened and made as convenient for travellers as the

old, they shall order the latter to be vacated, and the expense of such view and opening shall be defrayed out of the county treasury.

SEC. 44. If such report shall be against the expediency of such change, it shall not be made, and the board shall order that the petitioners shall pay the expenses attending such proceedings.

SEC. 45. Any such alteration may extend from one county into another, when twenty-four freeholders or forty-eight householders, of any county or counties interested, shall petition for the same.

SEC. 46. Such petition, the notice thereof, and the proceedings thereon, shall conform to the rules herein established for petitions to locate highways, except as in the next succeeding section is provided.

SEC. 47. *First.*—Such petitions may be made to the Board of County Commissioners of any county in which such alteration is proposed to be made.

*Second.*—At least forty days' notice of such application shall be given.

*Third.*—The auditor of the county where such petition is filed shall transmit a copy of the same to the auditors of the other counties interested.

*Fourth.*—The auditor to whom the same is sent, shall present it to the Board of Commissioners of his county, at their next session, and said board shall appoint three viewers, to meet and act with those to be appointed by the commissioners of the county whence such petition was transmitted.

*Fifth.*—The board with whom the original petition is filed, having appointed viewers, shall also appoint a time not less than forty days distant, and a place for their meeting convenient for all to assemble, a copy of which order shall be sent to the auditors of the other counties interested.

*Sixth.*—The auditor of the county to whom such copy is sent shall forthwith issue his precept to the sheriff, requiring him to notify the viewers appointed for his county, to meet at the time and place designated, which shall be forthwith served and return thereof made by such sheriff.

*Seventh.*—Report of the proceedings of such viewers shall be made to the Board of Commissioners of each county interested, and said boards shall proceed to carry out the same by such orders as may be necessary within their respective counties.

*Eighth.*—Such board shall allow their respective viewers such compensation as shall be reasonable, and shall also allow for all other expenses, and order the same to be paid out of the county treasury, or by the petitioners, according to the rules hereinbefore established.

SEC. 48. When to be paid [out] of the county treasury, the expense attending such proceeding shall be apportioned among the counties interested, according to the distance of the proposed change in the respective counties.

SEC. 49. Like remonstrance against any such change may be



made, as provided in sections eighteen and twenty-two of this act, and like proceedings shall be had thereon.

SEC. 50. Whenever any public highway shall have been laid out through any enclosed land, the supervisor shall give the occupant of such land, or the owner, if a resident of the road district, sixty days notice, in writing, to remove his fences.

SEC. 51. Such notice shall not be given so as to require a removal of such fences at any time between the first day of April and the first day of November.

SEC. 52. If the owner or occupant shall not have been allowed damages for the laying out of such highway upon his land, the supervisor shall give the person removing such fence credit for such removal on his highway tax.

SEC. 53. If the fence shall not be removed pursuant to such notice, the supervisor shall cause the same to be done.

SEC. 54. Every public highway already laid out, or which may hereafter be laid out, and which shall not be opened or worked or used within six years from the time of its being so laid out, shall cease to be a highway for any purpose whatever: *Provided, however,* That if any distinct part or portion of such highway shall have been opened or worked or used within six years, such part or portion of said highway as shall have been so opened or worked or used, shall not be affected by the previous provisions of this section: *Provided further,* That this section shall not be applied to the streets and alleys in any town: *And provided further,* That this section shall not be applied to such roads as are worked and used as a public highway.

SEC. 55. All public highways now in use heretofore laid out and allowed by any law of this State, of which a record shall have been made, and all roads not recorded, which have been, or shall be used as public highways for twenty years or more, shall be deemed public highways, but may be altered in conformity with the provisions of this act.

SEC. 56. When any person shall consider himself aggrieved by the decision of any Board of County Commissioners in regard to the performances of any duty required by this act, such person may appeal within sixty days after such decision to the circuit court of the proper county, whose decision thereon shall be final.

SEC. 57. Where proceedings shall have been had in more than one county, the auditor of each county shall furnish copies of such proceedings to be filed with the circuit court of the county in which the original proceeding was instituted, which court shall have jurisdiction of the appeal.

SEC. 58. In all applications for the location, vacation, or change of any public highway, actual settlers upon any of the public lands in any county in this State, shall have and possess all the rights and privileges, in this act granted to freeholders, and to all intents in that behalf shall be deemed and taken to be freeholders.

SEC. 59. Whenever in the opinion of the board of county com-

missioners, the public convenience shall require that a bridge should be built over any water course, they shall cause surveys and estimates thereof to be made, and shall order the same to be erected.

SEC. 60. If the estimate thereof shall exceed the ability of the district to perform, by the application of its ordinary amount of road tax and labor, the board may add thereto any other district or districts or portions of a district or districts which may be interested in the work, and may assess for the purpose a special tax on the real estate situated therein.

SEC. 61. Such board may, in their discretion, apportion such special tax according as the property taxed is interested in, or will be affected by the work proposed.

SEC. 62. The board shall receive and expend all donations that shall be made for any such purpose; they may also aid the same, when of general importance, by advances from the county treasury; they may also allow persons advancing for any such work, credit on their road tax for the same or any subsequent year or years.

SEC. 63. For the erection of any such bridge the [said] board may appoint the supervisor of the district, or any one or more discreet persons, as superintendents thereof.

SEC. 64. Such superintendents may be allowed a reasonable compensation, and shall take an oath faithfully to discharge their duties.

SEC. 65. The board shall, whenever they deem it of sufficient importance, advertise for contracts to build such bridge, and may enter into the proper contracts in writing therefor, requiring such guaranties as may be thought necessary.

SEC. 66. If any such bridge cannot be erected by public means or donations, the board may empower any person or company to build the same or to furnish part of the means therefor, allowing them to receive toll at stipulated rates according to the amount of the expenditure, subject in all cases to the right of the county, township, or district within which it is situated, to claim the same on payment of the sum expended with ten per cent. thereon.

SEC. 67. Whenever the board of county commissioners shall deem it proper and for the public good to purchase any toll bridge or to buy out any private interest therein, for the assessment, collection, and expenditures of the sum necessary therefor, said board shall have and possess all the powers conferred in sections fifty-nine, sixty, and sixty-one of this act.

SEC. 68. Said board, for the purpose of meeting any expenditures for the building or purchase of any bridge, or refunding any sum advanced for such purpose, or for making any special improvement on any road leading to or connected with such bridge, may also establish and collect reasonable tolls on any bridge so built or purchased.

SEC. 69. The supervisors of highways may put up and maintain in conspicuous places at each end of any bridge in his district, the



length of whose chord is not less than twenty-five feet, a notice with the following words in large characters, "one dollar fine for riding or driving on this bridge faster than a walk."

SEC. 70. If any person shall ride or drive faster than a walk over any bridge upon which such notices shall have been placed, and which shall then be found thereon, he shall for every such offence forfeit and pay the sum of one dollar, to be sued for by the supervisor before any justice of the peace of the proper county:

SEC. 71. If any person shall injure any bridge maintained at the public charge, he shall for every such offence forfeit treble damages, to be recovered in manner aforesaid.

SEC. 72. The board of county commissioners in the several counties shall have the care and superintendence of the highways and bridges therein, and it shall be their duty,

1, To give directions for the laying out, opening and repairing of highways, and the building and repairing of bridges within their respective counties;

2, To regulate the highways already laid out, and to alter the same, or any of them, whenever it shall be made to appear to them that it is expedient so to do;

3, To cause such of the roads used as highways, as shall have been laid out and opened, but not sufficiently described, and such as shall have been used for twenty years but not recorded, to be described and entered of record, and the width thereof to be defined;

4, To divide their respective counties into convenient road districts, and the same to change at pleasure;

5, To assign to each of said districts such of the inhabitants liable to work on highways, as they shall see proper, having regard as much as may be to proximity of residence.

SEC. 73. For the better improvement of any road or bridge, the board may unite two or more districts or parts of districts interested therein, and direct the application of the district labor and tax to such improvement.

SEC. 74. And on petition of a majority of the citizens of any district or districts interested in any such improvement, they may impose an additional tax in work or money, or both, on the districts or parts of districts aforesaid, and apply the same on such improvement.

SEC. 75. In aid of the same objects they may appropriate such sums as they may deem expedient out of the county treasury.

SEC. 76. The qualified electors in each township of the several counties in this State shall elect a supervisor in each of the road districts in their respective townships, at the annual township elections, held on the first Monday in April in each year, who shall hold his office for the term of one year thereafter.

SEC. 77. When there shall be a failure to elect a supervisor for any district, and in case a vacancy shall occur in said office from any cause, the county auditor shall appoint the necessary supervisor

for such district as soon as he is informed of such failure to elect, or vacancy, who shall hold his office until the next annual election.

SEC. 78. When an appointment of supervisor is made by the auditor, he shall make out a notice thereof, and deliver the same to the sheriff of the county within three days after such appointment, and said sheriff shall serve the same on the person appointed, and make return thereof to the auditor within seven days thereafter.

SEC. 79. Any person may discharge himself from obligation to serve as supervisor, by payment into the county treasury for the use of the proper district the sum of six dollars.

SEC. 80. Any person liable to perform highway labor who shall refuse or neglect to accept the appointment of supervisor within his district and to qualify and serve as such when duly elected or appointed, or to pay the sum in the next preceding section specified as a commutation therefor within twenty days after his appointment or election, shall be liable to indictment therefor, and on conviction to be fined in any sum not less than six dollars: *Provided*, that no person shall be liable to serve as supervisor of highways oftener than once in four years.

SEC. 81. It shall be the duty of supervisors of highways,

1, To take an oath or affirmation faithfully to discharge their duties;

2, To carry into effect all orders of the board of county commissioners for the opening and improving of roads within their respective districts, and to repair and to keep in good order all the public highways within the same;

3, To call out the hands assigned to their districts at the times best suited to the improvement of roads; to see that the labor be faithfully performed; to sue for and collect all fines and commutation moneys due to their districts, and to expend the same for the uses and purposes prescribed by law;

4, To receive from the county treasurer the road tax by him collected, belonging to their respective districts, first having given bond for the faithful disbursement thereof, with security to be approved by the county auditor, and to expend the same according to law.

SEC. 82. When any highway or bridge shall become impassable, by reason of any casual interruption from the falling of timber, floods, or other cause, the supervisor of the district shall call out a sufficient number of hands to place such highway or bridge in passable repair.

SEC. 83. When such extra labor provided for in the next preceding section, shall not require all the hands of the district, or an equal amount of labor from each, the supervisor may assess the same upon such number of the hands as he may deem sufficient, and for the excess of labor performed by any one over the average amount performed by all, he shall give to the person or persons performing such excess, a certificate of the amount thereof, which shall



be a good credit to the holder thereof, on account of any subsequent labor to be performed on the highways on [in] said district.

SEC. 84. Supervisors shall expend the money coming to their hands, from whatever source, in the purchase of plows, scrapers, crowbars, hammers, and other implements, necessary to be used in the making and repair of the highways, and in the making and repairing of the roads and bridges within their respective districts.

SEC. 85. Supervisors shall erect, maintain and keep up at the forks of every highway [and] at every crossing of roads within their districts, guide posts and boards, with proper inscriptions and devices thereon for the instruction of travellers, the expenses thereof to be paid out of any money in their hands, if sufficient, and if not sufficient then out of the county treasury.

SEC. 86. The supervisor, or any other person by his order, may enter upon any land adjoining or near to any highway in his district, and thereupon construct such ditches, drains and dams, and dig or remove any gravel, earth, sand or stone, or cut and remove any wood or trees that may be necessary for the proper construction, repair or preservation of such highway.

SEC. 87. Any person aggrieved by the exercise of the power given in the next preceding section, may petition the board of county commissioners for relief, who shall appoint three disinterested freeholders, to inquire of and assess the damages and make report thereof.

SEC. 88. The damages so assessed shall be paid out of the county treasury, as also the expense of the assessment, but if no damages are found, then the petitioner shall pay the expense of the proceeding.

SEC. 89. In all suits brought by the supervisor by virtue of the authority given him by this act, he shall be a competent witness, and shall not be liable for costs.

SEC. 90. The supervisor shall call out all the hands of his district, at the times best suited to the improvement of the highways.

SEC. 91. The supervisor shall keep an account of the work done by each person, and of the amount of money collected by him, or coming to his hands, and of the sources whence the same was derived; and also an account of his disbursements and of the objects and purposes for which said disbursements were made, and shall file a statement thereof, verified by his oath or affirmation, with the county auditor, together with a list of the names of all persons in his district liable to perform highway labor, on or before the first Monday in June, after the expiration of his term [of] office, and shall at the same time pay to his successor in office all road moneys remaining in his hands.

SEC. 92. The successor in office of any supervisor shall collect and receive all delinquencies accruing during the term of his predecessor, and all judgments that may have been rendered in the name of his predecessor, remaining uncollected.

SEC. 93. The Board of County Commissioners at their June

term annually, shall determine the amount of compensation to be allowed to each supervisor for services rendered during the preceding year, reckoning the same at seventy-five cents for each day such supervisor may have been necessarily engaged in the discharge of the duties of his office in a prompt and efficient manner, which compensation, when so allowed, shall be paid out of the county treasury.

SEC. 94. If any supervisor shall fail to compel the hands in his district to work the number of days required by law, or to pay the commutation money therefor, or shall fail to collect, expend, or pay over the fines, penalties, and moneys required of him by law, or shall fail to file with the County Auditor the statements prescribed in section ninety-one of this act, he shall for any such failure be liable to indictment, and on conviction shall be fined in any sum not less than ten nor more than fifty dollars.

SEC. 95. Whenever any supervisor shall fail or neglect to keep the highways and bridges within his district in as good repair as the available labor or other means within his district will enable him to do, he shall for every such failure or neglect forfeit and pay a fine not exceeding ten dollars, to be recovered by presentment or indictment in the circuit court.

SEC. 96. If any supervisor knowing of any penalties or forfeitures accruing under this act, for which he is required to prosecute, shall fail to prosecute for the same, he shall, on conviction by presentment or indictment in the circuit court, pay a sum of money equal to that for which he should have prosecuted.

SEC. 97. Any person conceiving himself aggrieved in consequence of any decision made, or act done by any supervisor, or by the refusal of any supervisor to do or perform any act in the discharge of his official duties, may complain to the board of county commissioners, whose decision thereon, after a hearing of the parties, shall be final.

SEC. 98. If any person shall sue for or on account of any act done, decision made, or refusal to do any act or perform any duty by any supervisor, for which he might have made complaint as in the next preceding section is provided, such person shall not recover any costs in such action.

SEC. 99. When the labor and road tax assessed on the inhabitants and property of any district, shall be insufficient to keep the highways within the same in repair, the supervisor shall make another assessment of labor upon the inhabitants of his district, in proportion to the regular amount of labor and tax assessed upon each, not to exceed twice the amount of such regular tax and labor of the current year.

SEC. 100. The board of county commissioners may exempt any person from any highway tax or from personal labor on highways, whenever they shall be satisfied that such person is unable to pay such tax, or from bodily infirmity to perform such labor.

SEC. 101. The board of county commissioners may, at their March  
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session in each year, assess as a road tax on all personal and real estate subject to taxation for county and State purposes, a sum not exceeding ten cents on the one hundred dollars of the appraised value thereof, or they may in their discretion dispense with any road tax on real and personal property.

SEC. 102. Whenever any such road tax shall be assessed in any county, the same shall be carried out in separate columns on the duplicate of State and county taxes by the auditor, and shall be collected and accounted for by the County Treasurer as other taxes are collected.

SEC. 103. The Auditor shall also prepare and deliver to the several supervisors of his county by the first Monday of July in each year, a list of the names of all persons charged with any such road tax in their respective districts, and the amount of the same.

SEC. 104. The persons so charged shall be allowed to work out such tax at the rate of seventy-five cents per day on the highways of their districts in which such property is situated, under the direction of the supervisor, in such manner [and] at such times prior to the first day of October of the same year, as the supervisor shall direct, and when the same shall be so worked out, the supervisor shall give to such person a receipt therefor, which receipt shall be received by the County Treasurer as a payment of that amount of such road tax charged against such person: *Provided*, That the County Treasurer shall not be allowed any commission or per centage on such road tax receipts as [so] received by him.

SEC. 105. The County Treasurer shall pay over to the supervisors of the several road districts in his county, on the order of the County Auditor, on or before the first Monday of July in each year, all such amounts of road tax as may have been collected by him, which said moneys shall be expended by the said supervisors in the repair of the highways and bridges therein, or for such other purposes as are required by this act.

SEC. 106. Whenever the county commissioners of any county shall dispense with any road tax on real and personal property, it shall be the duty of the supervisors of the road districts in such county, to require and notify the inhabitants of their respective districts, liable to perform road labor, to work on the highways whenever, and such number of days in each year as shall be necessary to put and keep the highways of such district in good repair, and at such time or times as shall be [best] adapted to the accomplishment of such object, assessing such labor equally upon all the inhabitants liable thereto.

SEC. 107. The supervisor shall give to each person required to perform highway labor at least three days' notice of the time and place when and where he is required to appear for that purpose, and of the implement that he is required to furnish.

SEC. 108. But in case of emergency a shorter notice, in the discretion of the supervisor, may suffice; such notice may be given by

the supervisor in person, or it may be in writing left at the usual or last place of residence of the party.

SEC. 109. The supervisor shall make to each person who at his request, shall have furnished a plough or wagon with a pair of horses or oxen and driver, an allowance of three days' work for the same, and also in proportion for a less force.

SEC. 110. Every person required to work on highways other than a supervisor, shall be allowed to commute for such work or for any part thereof, at the rate of seventy-five cents per day, in which case the commutation money shall be paid to the proper supervisor within twenty-four hours after the notice to work shall have been given.

SEC. 111. Any person liable to perform labor on the public highways, when notified, may appear in person, or by an able-bodied man as a substitute, and the person or substitute so appearing, shall actually work eight hours in each day, under a penalty of twelve and a-half cents for every hour such person or substitute, shall be in default, to be by the supervisor deducted from the price of the days labor.

SEC. 112. If any such person or his substitute, after appearing, shall remain idle or not work faithfully, or shall hinder others from working, such offender shall, for every such offence, forfeit the sum of one dollar, to be collected as other forfeitures herein specified.

SEC. 113. Every person liable to perform highway labor, and duly notified, who shall refuse or neglect to appear or pay his commutation as above provided, shall forfeit for every day's refusal, the sum of one dollar; if he shall have been required to furnish a team, wagon, driver, or other implement, and shall refuse or neglect to comply, being the owner of such team or implement required, he shall forfeit and pay as follows:

For wholly omitting to comply with such requisition, three dollars for each day.

For omitting to furnish a wagon or plough, one dollar for each day.

For omitting [to furnish] a pair of horses or oxen, one dollar for each day.

For omitting to furnish a driver, one dollar for each day.

SEC. 114. The supervisor shall within six days after any person so liable and notified, shall be guilty of any neglect or refusal for which a penalty is imposed in this act, unless a satisfactory excuse is rendered to him therefor, commence an action of debt for the penalty imposed, in his own name, before any justice of the peace of the proper township.

SEC. 115. Every penalty collected, shall be set off against the assessment upon which it was founded, estimating every dollar col-



lected as a satisfaction for one day's work; and the acceptance by any supervisor of any excuse for any refusal or neglect, shall not, in any case, exempt the person excused, from his liability to work or commute the whole number of days required of him during the year.

SEC. 116. When a public highway shall run through, or border on any plantation, and shall become obstructed by the falling of trees or otherwise, it shall be the duty of the owner of such plantation, to remove such obstruction so soon as may be, after the same shall come to his knowledge, for which the proper supervisor shall allow him a reasonable credit on his liability to work on the highways.

SEC. 117. All trees standing or lying on any land over which any highway shall be laid out, and which it shall be necessary to remove in the opening of such highway, shall belong to and be for the proper use of the owner of such land, provided, however, that the supervisor may take and appropriate to that purpose, any such trees as shall be necessary for the construction or repair of the highway and bridges on such land.

SEC. 118. Any person who shall be found horse-racing, or shooting along or across any public highway or bridge, shall, upon conviction thereof, before any justice of the peace, be fined in any sum not exceeding three dollars.

SEC. 119. Any person who shall in any manner, injure or destroy any drain, dam, embankment, ditch, or other construction made for the protection or improvement of any public highway or bridge, or any swinging-gate across any private or county road, when authorized by the County Board, or shall leave the same open, shall forfeit and pay the sum of ten dollars for every such offence, to be recovered by the supervisor, in an action of debt, before any justice of the peace, for the use of the highways and bridges within the district.

SEC. 120. Any person who shall, intentionally injure or destroy any guide post, or deface or alter any inscription or device thereon, shall, for every such offence, forfeit and pay the sum of ten dollars, to be recovered in manner and for the use aforesaid.

SEC. 121. If any person shall obstruct any public road, highway, or bridge unnecessarily, and to the hindrance of passengers, such person shall forfeit a sum not exceeding ten dollars for every such offence, and the further sum of one dollar for each day he may suffer such obstruction to remain to the hindrance of passengers, to be recovered in manner and for the use aforesaid.

SEC. 122. The driver of any wagon, cart, carriage, sleigh, or other vehicle, when using any of the public highways or turnpikes, and met or overtaken by any other wagon, cart, carriage, sleigh, or other vehicle, shall keep to the right, so as to allow such wagon,

cart, carriage, sleigh, or other vehicle, meeting or overtaking the other, to pass free and without obstruction. And any person offending against the provisions of this section, shall forfeit and pay the sum of two dollars for every such offence, to be recovered by action of debt, by and for the benefit of the person suing therefor; and shall also be subject to damages, to be recovered by the party injured.

SEC. 123. The county board of any county, at their March session, in any year, shall, on petition of a majority of the legal voters of any township or road district in such county, assess a specific tax for road purposes, on each acre of land subject to taxation, within such township or district, which shall be in lieu of all other road taxes on such land for that year, and shall not exceed two cents per acre: *Provided, however,* that such tax shall not be levied on any town lots. Such tax may be worked out on the highways of the district, at such rate as the Board of Commissioners shall determine—not less than seventy-five cents, nor more than one dollar per day, prior to the first day of October. And if not so worked out shall be collected by the County Treasurer as in other cases: *Provided, however,* That the provisions of this section shall not be applied to the county of Cass.

SEC. 124. Whenever any supervisor shall have in his hands ten dollars or upwards of moneys to be expended in his district, for road purposes, he may give ten days public notice, by advertisements posted in three of the most public places in his district, that he will let to the lowest bidder road work to the amount of the funds in his hands, and such supervisor shall thereupon let out such of the road work in his district as he shall think most advantageous to the public interest.

SEC. 125. The supervisor of any road district in which there may be any navigable stream or any part thereof, which has been or hereafter shall be, by act of Assembly, declared to be a public highway, shall have charge of the improvement thereof, unless otherwise by law provided, and may expend any part of the road tax or labor of his district in removing drift wood and other obstructions therefrom, under the same regulations that are applicable to other highways of his district.

SEC. 126. It shall be the duty of the supervisor of any road district, whenever the same shall be necessary for the public convenience, to erect foot-bridges across any stream where a public highway shall cross the same in such district, and keep the same in repair, and for this purpose may apply any of the available road tax or labor in said district.

SEC. 127. It shall be the duty of the Secretary of State, to cause ten thousand copies of this act to be printed and bound in pamphlet form, and to cause the same to be distributed with the general laws of the present session, to the several counties in this State, not



excepted from the provisions of this act, in such proportion as each of the several counties shall be entitled to receive. One copy of which shall be, by the County Auditors of the respective counties, delivered on demand to each supervisor of highways in such county.

SEC. 128. It shall be the duty of the supervisor, carefully to preserve said copy for the use of his district, and at the expiration of his term of office, to deliver the same to his successor in office; and for a violation of the provisions of this section in any respect, such supervisor shall be liable to a penalty of not less than one dollar, to be recovered by his successor in office, for the use of the district, before any justice of the peace of the proper township.

SEC. 129. All laws and parts of laws of a general nature, and all amendments and supplements thereto, in relation to the laying out, opening, repairing, changing, or vacating public highways and in relation to the erection and repair of bridges and all special laws, on any of said subjects applying to any one or more counties in this State, heretofore passed and enacted shall be and the same and every part thereof, are hereby repealed. *Provided*, That nothing in this act shall be so construed as to repeal the local laws now in force, in the counties of Sullivan, Perry, Morgan, Daviess, Pike, Martin, Blackford, Jay, Spencer, Shelby, Owen, Lawrence, Washington, Jefferson, Switzerland, Ohio, Putnam, Dearborn, Noble, Lagrange, Lake, Porter, Warrick, Jackson, Tippecanoe, Adams, Wells, Allen, Steuben, DeKalb, Scott, Delaware, Monroe, Fountain and Kosciusko.

SEC. 130. That in all cases where the General Assembly or the Boards doing county business in the several counties of the State, have heretofore attempted to establish a public highway, and which is now used as such, although informally established and defectively recorded, it shall be the duty of the Board doing county business, to cause the same to be surveyed by the County Surveyor, who shall ascertain and determine the said road by metes and bounds, and return a copy of the survey thereof to the County Auditor, who shall record the same in the records of the County Board, and the said road shall thereafter, be deemed a public highway legally established. *Provided*, That the provisions of this section shall not extend or be in force in the counties of Sullivan and Tippecanoe. *And provided further*, That the location of the said road, as now used, shall not be changed by the proceedings authorized in this section.

SEC. 131. It shall be the duty of any person owing any road tax on lands, and desiring to work out the same, to perform the amount of labor to be performed [by him], upon the roads situate in the road district in which such land may be situated, and not elsewhere.

SEC. 132. That this act shall not apply to, or affect the streets or alleys in any incorporated town, in any way whatever, so far as it relates to vacating, altering, or changing the same.

SEC. 133. The counties of Hancock, and Madison and Warrick, are

hereby exempted from the provisions of this act, and all laws in force prior to the enactment of this law, is still in full force and effect so far as the counties aforesaid are concerned.

SEC. 134. All laws and parts of laws coming in conflict with this act be, and the same are hereby repealed, except such as are by this act excepted.

## CHAPTER CX.

### AN ACT *declaratory of the meaning of a certain act therein named.*

(APPROVED JANUARY 15, 1849.)

SECTION 1. Streets and alleys in towns not to be vacated though not worked within six years

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the fifty-fourth section of the sixteenth chapter of the Revised Statutes of 1843, shall not be construed to apply to any street or alley in any incorporated or unincorporated town.

SEC. 2. This act shall be in force from and after its passage.

## CHAPTER CXI.

### AN ACT *in relation to the highway tax of the county of Lagrange.*

(APPROVED JANUARY 13, 1849.)

SECTION	SECTION
1. The 16th chapter Revised Statutes extended to Lagrange county.	3. When to be in force—Repealing clause.
2. Board of Commissioners may, on petition, assess additional road tax.	4. Secretary of State to forward certified copy.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the provisions of chapter 16, of the Revised Statutes of 1843, be, and the same are hereby extended to the county of Lagrange.

SEC. 2. It shall be lawful for the Board of Commissioners of said county of Lagrange, upon a petition of a majority of the voters



interested, of any road district in said county, to levy a tax in such road district, in addition to the taxes already provided for, in said chapter 16, of the Revised Statutes of 1843, of not exceeding two days' work, or in lieu thereof, of one dollar and fifty cents in money, upon each and every eighty acres of land in such road district, to be levied and collected in the same manner, as provided in article 4, of chapter 16, of said Revised Statutes.

SEC. 3. This act shall be in force and take effect from and after its passage, and the filing of a copy thereof in the Clerk's office of the Lagrange circuit court, and all acts and parts of acts contravening the provisions of this act, be, and the same are repealed.

SEC. 4. It shall be the duty of the Secretary of State, to forward a certified copy of this act to the clerk of the Lagrange circuit court, within ten days from the time of the passage thereof.

## CHAPTER CXII.

### AN ACT in relation to road taxes in Adams county.

[APPROVED JANUARY 15, 1849.]

SECTION 1. The county board may assess road tax not more than 3¢ cents, nor less than 1¢ cents.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter it shall be lawful for the Board doing county business for the county of Adams, at any of their sessions, to assess for road purposes a road tax on all the lands taxable in said county of not more than three and three-fourth cents per acre, nor less than one and one-fourth cents.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CXIII.

### AN ACT to revive the law authorizing the assessment of a tax on real estate in the county of Morgan for road purposes.

(APPROVED JANUARY 16, 1849.)

#### SECTION

1. Law abolishing road tax repealed, and 16th chapter Revised Statutes revived.
2. The provisions of the act of the present session, to consolidate the several road laws, extended to Morgan county—Sec.

#### SECTION

- retary of State to distribute copies to county of Morgan.
3. When Treasurer to pay over road tax to Supervisors—Supervisors to give bond.
4. Secretary of State to forward certified copy

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled, "an act abolishing the highway tax so far as the county of Morgan is concerned," approved the 19th January, 1846, be, and the same is hereby repealed; and so much of the 16th chapter, article fourth, of the Revised Statutes of 1843, as was therein repealed, is hereby revived and declared to be in full force.

SEC. 2. The provisions of an act of the present General Assembly, entitled, "an act to revise and consolidate the several acts of the General Assembly in relation to laying out, opening, repairing, changing, and vacating public highways and the erection and repair of bridges, and to amend the same," are hereby extended to the county of Morgan, except so far as they contravene the provisions of this act, and it is hereby made the duty of the Secretary of State to distribute a proportional number of the copies of said act as is directed in section 127, to the county of Morgan.

SEC. 3. It shall be the duty of the Treasurer of the county of Morgan to pay over to the supervisors of the several road districts in his county on the order of the county Auditor on or before the first Monday of July in each year, all such amounts of road tax as may have been collected by him, belonging to their respective road districts, the said supervisors having first given bond for their faithful disbursement thereof according to law, with a penalty equal to the amount so received and security to be approved by the Auditor.

SEC. 4. This act to be in force from and after its passage, and it is hereby made the duty of the Secretary of State to forward a certified copy of this act to the office of the Auditor of the county of Morgan by the first day of February next.



## CHAPTER CXIV.

AN ACT to authorize the County Commissioners of the county of Cass to increase the highway tax in said county.

(APPROVED JANUARY 17, 1849.)

SECTION	
1. County Commissioners to assess road tax	not exceeding twenty cents on on \$100 value of real estate.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter all real estate in said county of Cass, (except the real estate within the corporate limits of the city of Logansport) shall be assessed and pay as a highway tax the sum of not exceeding twenty cents on each one hundred dollars of the appraised value thereof at the discretion of the board of county commissioners of said county, and shall be collected in the same manner as other highway taxes are collected.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CXV.

AN ACT to compel speculators to pay a road tax equal to that paid by actual settlers, and for other purposes, in the county of Tipton.

(APPROVED JANUARY 16, 1849.)

SECTION.	SECTION.
1. Tax collectors to construct and repair.	3. Legalizing acts of Supervisors.
2. Supervisors to give bond.	4. Supervisors governed by general law.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in the county of Tipton there shall be assessed and collected for the purpose of repairing and constructing roads and highways in said county, the sum of one and one-fourth cents on each and every acre of land lying within the limits of said county, (as above described) subject to taxation, and on town lots in Tipton county, with the improvements thereon which are subject to taxation, the sum of twenty cents on each and every hundred dollars valuation thereon.

SEC. 2. That the several supervisors of said county of Tipton shall give a bond, payable to the State of Indiana, in a sum at least double the amount of money drawn by him from the county treasury, with surety to be approved of [by] the Board of said county, conditioned for the faithful expenditure of all monies received

by him as such supervisor, as directed by the general laws of the State on the subject of roads and highways.

SEC. 3. That all acts of supervisors and other officers relating to roads and highways in the said county of Tipton, for and during the years 1847 and 1848, are hereby legalized.

SEC. 4. That the several supervisors in the said county of Tipton shall be governed in all respects by the general laws relating to roads and highways. [And all the special laws relating to roads and highways] in the county of Tipton, are hereby repealed.

SEC. 5. This act shall be in force from and after its passage.

## CHAPTER CXVI.

AN ACT to increase and extend the benefits of Common Schools.

(APPROVED JANUARY 17, 1849.)

SECTION	SECTION
1. Amount of tax assessed and how—Agents of Insurance Companies to return list to Assessors—Personally liable for tax—Penalty for refusing to render schedule.	16. How assessed and collected.
2. Taxes, &c., to be denominated County Common School Fund.	16. Districts how laid off—Township trustees may change districts—30 days' notice, and how given.
3. Tax on premiums of insurance to be paid to State Treasurer—To be apportioned to several counties and paid Treasurers as part of school fund.	18. Teachers to report to district trustee—until report is made no certificate for compensation to issue.
4. School Commissioners to settle with Auditors, pay over money and deliver books—Treasurers and Auditors to perform duties of Commissioners.	19. No township entitled to distributive share of funds until the clerk reports to the County Auditor.
5. Compensation of Auditors and Treasurers.	20. County Auditors to report annually to Treasurer of State.
6. County Auditor to mean County Auditor and Clerk of Circuit Court.	21. Treasurer of State to report to General Assembly.
7. School fund to be distributed, when and how.	22. Compensation of township and district trustees, and how allowed.
8. Schools taught at least three months in each year—Township trustees so to arrange schools that they may be taught equal length of time.	23. Penalty for neglect of duty—how recovered and for what use.
9. District trustees how and when elected.	24. Compensation of Superintendent of Common Schools.
10. Duties of district trustee—When absent voters may appoint chairman of meeting.	25. Fractional townships attached to adjacent townships for school purposes.
11. Shall make report to township trustees annually—Township clerk to certify to County Auditor.	26. School Commissioners and securities liable for moneys, &c., unaccounted for—County Auditor to prosecute suits—When foreign and domestic attachment to issue—Proceedings how governed.
12. School district formed of portions of two townships report made to clerk of each.	27. County Auditor to employ counsel.
13. Qualified voters of district may assess tax not to exceed 15 cents on each \$100 in any year.	28. Penalty for embezzlement of funds.
14. Labor tax how performed—persons failing to discharge labor tax—Proceedings to be had.	29. School houses by private liberality recognized and allowance made.
15. When money tax levied, district trustee to file list of property, &c., with County Auditor	30. Repealing clause.
	31. Distribution of funds in March, 1849, not prevented—The several counties exempted from the provisions of this act until they respectively assent—Assent how given—Inspector of elections to certify to County Auditor—Vote to be taken at each succeeding August election until assent be given.



SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be annually assessed, collected and paid, (as the State and county revenue is assessed, collected and paid,) for the purpose of increasing the common school fund, to be appropriated exclusively for the support of common schools: First, on the list of property taxable for State purposes, there shall be levied and paid the sum of ten cents on each and every one hundred dollars: Second, there shall be paid by every person liable to pay a poll tax for State purposes, twenty-five cents annually; *Provided*, That all the taxes required or authorized by this act in any provision thereof, shall be assessed only upon free white persons, and upon the property of such persons only. Third, a tax of three dollars on each one hundred dollars shall be assessed on the amount of all Premiums received in this State for insurance on property or lives, within the same by the agents of insurance companies not chartered therein. And in order that said assessment may be made, it shall be the duty of every agent of said company to render to the assessor of his county or township a true list, verified by oath or affirmation, of all such premiums received by him within the year preceding the time fixed for assessing personal property; and such agent shall be personally liable for the payment of the aforesaid tax, which shall be collected as other taxes. But if any such agent shall, when required, refuse to render a schedule of the premiums received by him as such agent, he shall be liable to pay the sum of one hundred dollars, to be recovered by action of debt in the name of the county auditor, for the use of common schools.

SEC. 2. The several taxes hereinbefore mentioned, (with the exception of the tax upon premiums of insurance) shall, together with the surplus revenue fund, the saline and bank tax fund, be and are hereby set apart for the support of schools, within the respective counties of the State, and shall be denominated the county common school fund.

SEC. 3. The tax upon premiums of insurance as specified in the first section of this act, shall be paid over by the several county treasurers to the State treasurer, distinguishing the same from other taxes, and the said State treasurer shall apportion the same among the several counties of the State, according to the number of polls therein, and pay over to the several county treasurers, their respective proportions of the said fund, which shall be added to, and become a part of the county common school fund.

SEC. 4. It shall be the duty of each and every school commissioner, at the term of the board doing county business next after the passage of this act, to make final settlement of his accounts with the county Auditor, (which said settlement shall be entered upon the record of said board,) and to pay over to the treasurer of the county all moneys remaining in his hands as such commissioner, and to deliver to the county Auditor all the books, papers, and securities for money loaned, appertaining to his said office; and the office of the said commissioner shall thereupon be abolished, and

thereafter all moneys, whether principal or interest, which by any existing laws are required to be paid by the school commissioner, shall be paid to the county Treasurer, and all payments which are required by any existing law to be made by the school commissioner, shall be made by the county Treasurer; and all other duties and services which are required to be performed by the school commissioner by any existing law, shall be performed by the county Auditor; and the said Treasurer shall issue his receipt for all moneys so paid to him by the school commissioner, which receipt shall be filed with the county Auditor, who shall charge the said Treasurer therewith.

SEC. 5. For the compensation for the discharge of the said several duties prescribed by the foregoing section, or which may be imposed by this act, the said county Auditor shall be allowed upon the amount of the congressional township and school district funds, and other school funds on loan in his county, at the time he makes his annual settlement with the board doing county business, and on which interest shall have been paid for the current year, and upon the amount raised by taxation in aid thereof, one-half of one per cent., which said compensation shall be in full for all such service to be performed by said Auditor, and the said county Treasurer shall be allowed upon the said sums one-half of one per cent., which allowance shall be in full of all services in collecting and disbursing the said common school fund.

SEC. 6. Whenever the words county auditor are used in this act, they shall be understood and construed to mean, the county Auditor, or the Clerk of the Circuit court doing the business of the county Auditor.

SEC. 7. The Treasurer of the several counties, shall annually on the second Monday in March, make distribution of the several funds applicable to school purposes, (upon the proper warrant of the county Auditor,) to the several townships of the county, which payment shall be made to the Treasurer of each township; and in making the said distribution, the Auditor shall ascertain the amount of the congressional township fund belonging to each township in the county, and shall so apportion the amount raised by taxation, the surplus revenue, saline, and bank tax funds, as to equalize the amount of available funds in each township as near as may be, according to the number of scholars therein; *Provided*, That nothing herein contained shall be so construed, as to divert the fund commonly called the congressional township fund, or any part thereof, from the objects and purposes for which it was granted by Congress.

SEC. 8. There shall be taught in each township in this State, by legally qualified teachers, for at least three months in each year, as many free schools as may be required for all attending scholars in such township, and it shall be made the duty of the township trustees so to arrange the schools of their respective townships, that the schools in each district may be taught an equal length of time, without regard to the diversity in the number of scholars attending the respective schools.



SEC. 9. The business of each district shall be transacted by one district trustee, who shall be elected annually by the legally qualified voters of the district, on the first Saturday of September, at which time also the general meetings of the voters of each district shall hereafter be held, and the said trustee shall continue in office until his successor is elected and qualified.

SEC. 10. It shall be the duty of the district trustee to preside over all meetings of the voters of the district, to keep a record of their proceedings, and report the same to the clerk of the board of township trustees, where such report may be necessary, to do and perform all such acts, matters and things, as may be required of him by the board of township trustees; he shall make all contracts, purchases, and sales, necessary to carry out any vote of the district, for the procuring of any site for a school house, building, hiring, repairing, or furnishing the same, or disposing thereof, or for the keeping any school therein, and all payments shall be made by the treasurer of the township trustees, upon the certificate of the district trustee as to the performance of the service or labor, or the conveyance of the property contracted for, and whenever from any cause the said district trustee shall not be present at the meeting of voters of the district, the meeting shall appoint a chairman, who shall for the time being discharge the duties of such trustee.

SEC. 11. The district trustee shall act as the organ of communication between his district and the board of township trustees, and shall make to them from time to time such suggestions as may advance the educational interests of his district, and shall, on or before the 15th day of Sept. annually, certify to the clerk of the board of township trustees, the number of scholars in his district, male and female, between the ages of five and twenty-one years of age, distinguishing between five and ten, and ten and fifteen, and fifteen and twenty-one years of age, the whole number of scholars admitted to the school, the average attendance, the length of time a school has been taught, whether by a male or female teacher, the branches taught, the books used, whether the district has a school library, and if so, the number and value of the volumes, the condition of the school house, the furniture thereof, and of what the furniture consists; and the clerk of the board of township trustees shall certify the same to the county auditor on or before the first day of October annually, together with a statement of the amount expended in the several districts of their township for tuition and all other expenses.

SEC. 12. In cases where any school district may be formed out of portions of adjacent townships, the report required of the district trustee shall be made to the clerk of each of the townships, in which such district may lie.

SEC. 13. It shall be lawful for the qualified voters of any school district in the State, at any general or special meeting thereof, to vote a tax for the purpose of building a school house, or repairing the same, or providing fuel, or such furniture, maps, books, and ap-

paratus, as a majority shall deem proper; they may, also, for the purpose of continuing their schools after the public money shall have been expended, vote to raise by tax such an amount as the majority may deem advisable; *Provided, however,* That the aggregate amount of all taxes, so levied by a vote of the district, shall in no case, in any one year, exceed the amount of fifteen cents on each one hundred dollars worth of property.

SEC. 14. When any tax is voted to be paid in labor, it shall be worked out under the supervision of the district trustee, and when any person charged with a tax payable in labor shall fail to discharge the same after two weeks' notice to comply with the proper requisition, the district trustee shall report the same to the clerk of the board of township trustees, whose duty it shall be to bring suit therefor in the name of the board of township trustees for the use of the proper district, and a recovery shall be had at the rate, if any established, for commutation, if not, at the rate of seventy-five cents per day, and an execution shall be issued thereon, which shall not be subject to any relief whatever from valuation or appraisement laws.

SEC. 15. When any tax is voted by any district to be paid in money, the district trustee shall make a list of all the taxable property within the district, together with the names of the owners, and shall file the same together with the votes of the meeting, directing the same to be levied, with the county auditor.

SEC. 16. The auditor shall make the proper assessment thereof, upon the property chargeable, in the same manner as for State and county revenue, according to the regular appraisement thereof in his office, and shall add the amount of said taxes to his duplicate in an appropriate column, and the said taxes shall be collected by the county treasurer, as other revenues are collected, and the said treasurer shall when collected, hold the same subject to the order of the trustees of the proper township, for the use of the said district.

SEC. 17. The district shall be laid off in such manner as to be most convenient for the population and neighborhoods thereof, paying due regard to any school house already erected, districts already laid off, and other circumstances proper to be considered, and shall be formed to contain, if convenient, not less than twenty-five scholars. And the board of township trustees shall have power to change any school district under their charge, so as to increase or diminish their size, and may consolidate two or more into one, or may add parts of one or more to others; and the trustees of adjacent townships may form a district out of parts of such townships, but no subdivision shall be made to reduce the number of scholars, below twenty-five in any district; *Provided, however,* That before any subdivision or change shall be made, the township trustees shall give thirty days notice of the proposed change or subdivision, by posting the same in three public places, within the district or



districts to be affected thereby, and they shall also give personal notice thereof to the trustees of the district to be affected.

SEC. 18. In order to enable the trustee of the district to make the reports which are required of him by this act, the teacher of each and every school district shall, at the expiration of the term of the school for which he shall have been employed, furnish to the district trustee, a full and complete statement of the whole number of scholars admitted to the said school, the average attendance, the length of time the school has been taught, the branches taught, and the books used; and until said report shall have been furnished by the teacher as aforesaid, it shall not be lawful for the district trustee to issue the said teacher the certificate entitling him to his compensation as such teacher.

SEC. 19. Until the clerk of the board of township trustees shall have made to the county auditor the reports required by the 11th section of this act, the township of which he is clerk shall not be entitled to its distributive share of the school fund.

SEC. 20. On or before the first day of November, annually, the several county auditors shall report to the treasurer of State, as superintendent of common schools, the substance of all reports made to them by the several township clerks of their respective counties, and also the number of unorganized townships in their respective counties, if any, the amount of territory not laid off into school districts, the number of acres of school land remaining unsold, if any, and whether the same is improved or unimproved, productive or unproductive.

SEC. 21. It shall be the duty of the Treasurer of State, as superintendent of common schools, to condense the reports of said Auditors, and submit the same to the General Assembly during the first week of the session thereof.

SEC. 22. The township and district trustees shall each be allowed the sum of seventy-five cents per day, for each and every day employed in the discharge of their respective duties, and they shall keep an account of the number of days, and parts of days so employed, which account shall be verified by the oath or affirmation of the said trustees, and the compensation of the district trustees shall thereupon be paid by the treasurer of the proper township, out of the funds of the proper district, and for the compensation of the township trustees, the county Auditor shall draw his warrant to be paid out of the funds of the proper township.

SEC. 23. If any county, township, or district officer shall fail or refuse to discharge any of the duties of his office, which are now, or may hereafter be required of him by law, such officer so offending, for every such offence, shall be liable in an action of debt to any person suing therefor, in the name of the State of Indiana for the use of common school fund, in such sum, not exceeding ten dollars as any justice of the peace of the proper township trying the same may deem reasonable, which sum when collected shall be if from a district officer, for the use of the school fund of his dis-

trict, if from a township officer, for the use of the school fund of the proper township, and if from a county officer, for the use of the county common school fund, and any person elected to the office of township or district trustee, who shall neglect or refuse to qualify and serve as such, shall be liable to pay the sum of five dollars, to be recovered as hereinbefore specified.

SEC. 24. The Treasurer of State, as superintendent of common schools, shall be allowed annually the sum of — for the performance of the several services required of him.

SEC. 25. In all cases where there shall be any fractional congressional township or townships in any county containing a less quantity of land than six square miles, the said township or townships shall be [by] the Auditor of the proper county, attached to, and made to form a part of the adjacent township or townships, for the purpose of having the same distributed, and for school purposes, and it is hereby made the duty of the several auditors, so to attach the said townships, and of the township trustees of the township to which the same may be attached to take jurisdiction thereof and district the same, and to do and perform all such other acts, matters and things which may be necessary, as though the same were originally a part of their proper school territory.

SEC. 26. The several school commissioners, and all persons who have heretofore held the said office, and their securities, are hereby declared liable for any and all moneys, and other property, belonging to the school fund, remaining in the hands of the said commissioners, or persons who have held the said office, unaccounted for, and it is hereby made the duty of the county auditor to commence and prosecute to final judgment suit or suits, in the name of the State of Indiana, for the use of the common school fund, against all such commissioners and persons who have held the office of school commissioner, and their securities, for any and all such moneys or other property remaining in their or any of their hands unaccounted for, and in all cases where any such school commissioner, or person who has held the office of school commissioner, or their or any of their securities, shall have absconded or otherwise left the State of Indiana, having any money or other property belonging to the school fund unaccounted for, or being surety for any defaulting school commissioner, it shall and may be lawful, and it shall be the duty of the county auditor to commence and prosecute to final judgment, in the name of the State of Indiana, for the use of the common school fund, writ or writs of foreign and domestic attachment against the goods or chattels, lands and tenements, of such absconding or removed commissioner or security, which said writ or writs may be levied upon any property, subject by the laws of the State to execution, and the proceedings in such case shall be governed in all respects by the statutes regulating proceedings in foreign and domestic attachment, with this exception, that the bond or bonds required of individuals by the said statutes shall be in such cases dispensed with.



SEC. 27. In prosecuting any of the suits required by the foregoing section, the county auditor shall be, and he hereby is, authorized to employ counsel to conduct the said suits, at such reasonable rate of compensation as may be agreed on.

SEC. 28. Any State, county, or township officer, having the charge of any of said school funds, who shall embezzle or appropriate to his own use, any of said school funds, shall, upon conviction, on presentment, or indictment, be fined in any sum not exceeding four, nor less than two fold the amount so embezzled or appropriated to his own use, and be imprisoned in the county jail for not more than six months, at the discretion of the court or jury trying the same.

SEC. 29. Whenever school houses have been erected by private liberality, and schools established therein, it shall and may be lawful for the trustees of the township in which the same may be situate, to recognize the same as a public school, and to make such allowance thereto as may in their judgment be just and equitable.

SEC. 30. All acts or parts of acts conflicting with any of the foregoing provisions, be and the same are hereby repealed.

SEC. 31. This act to be in force from and after its publication in the Indiana Journal, and State Sentinel, with this exception, that nothing herein contained shall be construed to prevent the distribution of the school funds, in March, 1849, under the laws now in force: *Provided, however,* That the several counties of this State be and they are hereby exempted from the provisions of this act, until said counties respectively assent thereto, and for the purpose of securing such assent, at the annual August elections held in the several townships in said counties, the inspectors shall propound to each person when he presents his ballot, the following question, to-wit: "Are you in favor of the act of 1848-9, to increase and extend the benefits of common schools?" the answer to each of which interrogatories shall be noted down by the clerks of such elections, and the number voting in the affirmative and negative, certified by the inspectors of said elections to the county auditors of their respective counties, at the same time required by law to make returns of such elections; and whenever a majority of those voting at such township August elections in any of said counties, are in favor of this act, then the same shall take effect and be in force in such county, and until such assent is given in each of said counties, the vote for and against this act at each succeeding August election, shall be taken as above in this section provided, in each of said counties so refusing its assent thereto.

It shall be the duty of the sheriffs of said counties annually, during the pending of the question as to the adoption of this act, to give notice thereof by posting up written notices at each precinct or place of voting in their several counties, and by publishing the same in a newspaper when one is published in the county, at least thirty days before such elections. All laws on the subject of common schools, now in force in said counties, to continue in force

therein until this act shall have been adopted by them severally, as herein provided, any thing in this act to the contrary notwithstanding.

## CHAPTER CXVII.

### AN ACT *more effectually to provide for the security of the school fund.*

(APPROVED DECEMBER 27, 1848.)

#### SECTION

1. School commissioners absconding, writs of foreign and domestic attachment to be sued out, and how prosecuted.

#### SECTION

2. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever any school commissioner shall have absconded or removed from the State of Indiana, having any school funds in his hands unaccounted for, it shall and may be lawful for his successor in office, and in case there be no such successor, for the county auditor, to sue out and prosecute to final judgment, a writ or writs of foreign and domestic attachment against the real and personal property of such school commissioner, in the proper circuit court, which said suit or suits shall be commenced and prosecuted in the manner prescribed by the several acts regulating the proceedings of foreign and domestic attachments in force at the time of such proceeding, with this exception, that the said successor in office, or county auditor, as the case may be, shall not be required to file the bond or bonds required by the said acts, in suits between individuals.

SEC. 2. All laws and parts of laws coming within the purview of this act, be and the same are hereby repealed.

SEC. 3. This act to be in force from and after its passage.



## CHAPTER CXVIII.

AN ACT *in relation to school lands in Floyd county.*

(APPROVED JANUARY 16, 1849.)

## SECTION

1. School lands to be re-appraised — appraisement returned to county auditor — how sold, and terms of sale.

## SECTION

2. Sale and conveyance made under laws now in force.  
3. Declared a public act — Secretary of State to forward certified copy.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the trustees of the several congressional townships in Floyd county, be, and they are hereby authorized to re-appraise all of the unsold or forfeited school lands belonging to their respective townships, and return said appraisement when made to the auditor of said county, and said auditor and the school commissioner of said county, or the person doing the duties of school commissioner in said county, be, and they are hereby authorized to sell said lands or any part thereof, at such time and upon such terms and conditions as the trustees of said townships respectively shall direct: *Provided*, That no part of said lands shall be sold for less than one-half of their appraised value.

SEC. 2. That said auditor and school commissioner, in making the sales contemplated in this act, and the necessary conveyance thereafter, shall in all things be governed by the laws now in force regulating the sale and conveyance of forfeited school lands except as otherwise provided in this act.

SEC. 3. This act to be a public act, and be in force from and after its passage; and it is hereby made the duty of the Secretary of State to forward a duly certified copy of this act to the auditor of Floyd county.

## CHAPTER CXIX.

AN ACT *authorizing the re-appraisement of certain school lands in Clinton county.*

[APPROVED JANUARY 13, 1849]

## SECTION

1. Certain school lands to be re-appraised.  
2. How appraised — appraisement recorded — copy certified to auditor.  
3. How and where sold — 30 days' notice given, and how.

## SECTION

4. Terms of sale.  
5. Sale governed by law now in force.  
6. Compensation of auditor and school commissioner, and how paid.  
7. Secretary of state to forward certified copy.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the trustees in and for congressional township number twenty-one, north of range number one, east, in Clinton county, be and they are hereby authorized to re-appraise the following lands, viz: the north-east quarter of the north-west quarter, and the east half of the north-east quarter, and the south-west quarter of the north-east quarter, and the east half of the south-east quarter of section sixteen in said township and range, which lands have been forfeited for the non-payment of interest due on the purchase money.

SEC. 2. It shall be the duty of said trustees forthwith to re-appraise each of the above tracts separately, and fix a minimum price, below which the same shall not be sold, which appraisements they shall record in the records of said township, and cause a certified copy of the same to be forwarded to the auditor of said county.

SEC. 3. The county auditor and school commissioner of said county shall proceed, immediately on the filing of said certified copy as aforesaid, to sell the same at the Court House door of said county, giving at least thirty days' notice of the time and place of such sale to the highest bidder, by posting up three manuscript advertisements in the most public places in said township, and one at the door of the Court House of said county.

SEC. 4. One-fourth of the purchase money shall be paid in hand, and legal interest on the residue for one year in advance, the remaining three-fourths in twenty-five years, with interest as aforesaid annually in advance.

SEC. 5. The officers having the management of said lands, and the purchasers at such sale, shall in all respects be governed by the laws now in force regulating the sale of school lands in this State.

SEC. 6. The auditor and school commissioner, for their services in making sale of said lands, shall be allowed the same compensation that they now are allowed by law for making sale of forfeited school lands, to be paid out of the funds of the township.

SEC. 7. This act shall take effect and be in force from and after its passage, and it is hereby made the duty of the Secretary of State to forward a certified copy to the auditor of Clinton county immediately.



## CHAPTER CXX.

*AN ACT relative to the sale of School Lands in certain Counties therein named, and to amend article 13, chapter 13, of Revised Statutes of 1843.*

(APPROVED JANUARY 5, 1849.)

## SECTION

1. Majority of voters of Congressional townships in certain counties, may petition for sale of school lands—petition verified by affidavit—proceedings thereon by township Trustees—County Com-

## SECTION

missioners may order sale—sale conducted according to laws in force.  
2. Lands partly in another county regarded to be in said counties.  
3. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for a majority of the qualified voters of any congressional township in the counties of Laporte, Cass, Wabash, Franklin, Brown, Green, Daviess, Martin, Owen, Fountain, Huntington and Whitley, to petition the trustees of said township to cause to be sold the whole or any particular tract of the forfeited or unsold school land of said township. Upon the filing of such petition verified by the affidavit of one or more of such votes, that the petition contains the signatures of more than one half of the qualified voters of such township, it shall be the duty of the trustees to enter same together with said affidavit on their record book, and then to proceed to divide the land into such lots as will in their judgment insure the best price—to affix a minimum price to each lot not less than one dollar and twenty-five cents per acre, and certify such division and appraisement to the proper county Auditor, together with a copy of such petition and affidavit which shall be in lieu of the proceedings required by sections 169, 170, 171, 172, 173, 174 and 175, of chapter 13, of the Revised Statutes of 1843, and shall have the same force and effect as if the requirements of those several sections had been fully complied with; and it shall be lawful for the county commissioners thereafter, at their option, to order and direct the sale of the land so petitioned to be sold, which sale shall be conducted according to the laws in force regulating sales of forfeited or unsold school lands.

SEC. 2. If the land sought to be sold or the congressional township shall be partly in another county, the petitioners may, nevertheless, file their petition as aforesaid, and for the purpose of procuring a sale of land, it shall be regarded as being in said Laporte, Wabash, Cass, Brown, Franklin, Green, Daviess, Martin, Owen, Fountain, Huntington, and Whitley counties, and the same proceedings may be had and with like effect, as if it lay wholly in one of said counties.

SEC. 3. This shall be a public act and in force from and after its passage, and all laws coming in conflict with [the] provisions of this act are hereby repealed.

## CHAPTER CXXI.

*AN ACT in relation to the powers and duties of the Trustees of Congressional Townships in Daviess County.*

(APPROVED JANUARY 16, 1849.)

## SECTION

1. Township Trustees authorized to lease school lands.

## SECTION

2. Repealing clause.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the township Trustess in the several Congressional townships in the county of Daviess, shall have power to lease all or any part of the school lands belonging to their respective townships, (in the absence of any vote of the township to sell the same) for any term of time not exceeding seven years, reserving rents payable in money, property, or improvements to be made on the lands as they shall determine.

SEC. 2. All laws and parts of laws conflicting with the forgoing provision be and the same are hereby repealed so far as the same relates to the county of Daviess.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CXXII.

*AN ACT legalizing the sale of the school section in Township 20th North of Range 10 East, in Delaware County.*

(APPROVED JANUARY 5, 1849.)

## SECTION

1. Sale of school section legalized.

## SECTION

2. Title to lands under said sale legalized,

WHEREAS, The record of the school commissioner of Delaware county does not show that necessary notice under the act of January 23d, 1829, was given; nor that a majority of the qualified voters of the township voted for the sale of said section; nor that the trustees elected under that act were sworn; nor that the school commissioner of said county advertised said sale, as required by said act. AND WHEREAS, From the lapse of time which intervened since said sale, (it having taken place in the year



1830,) no papers can be found going to establish the fact, that the requisitions [of] the Statute have been complied with, and the said section having been sold to divers persons, who and their heirs, or assigns, are in quiet and peaceable possession of the same; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the sale of the school section in township No. 20 north, of range 10 east, by the school commissioner of Delaware county, be, and the same is hereby legalized and confirmed in as full and ample a manner, as though the record of the proceedings, had for the sale of said section showed that the requirements of the act approved January 23d, 1829, entitled "An act to authorize the sale of the school lands, and for other purposes," had in all things been complied with.

SEC. 2. *And be it further enacted,* That all proceedings in any of the courts of this State, either of law or chancery, affecting the validity of the title acquired by any purchase under sale aforesaid, the forms and requirements of said Statute be taken and deemed to have been fully complied with, and the title to all lands under said sale fully and completely vested in the purchasers, their heirs or assigns, forever.

SEC. 3. This act to take effect and be in force from after its passage.

### CHAPTER CXXIII.

#### AN ACT in relation to School-houses in Dearborn County.

(APPROVED JANUARY 16, 1849.)

##### SECTION

1. When site for school-house cannot be purchased, what proceedings to be had.

##### SECTION

2. Assessors to return description of land to district Clerk--Clerk to record description.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever any school district in Dearborn county, in this State, shall decide on a site to build a school-house, and it cannot be procured by purchase or donation, the board doing county business, in which such site lies, on application of the district trustees of the district in which such site lies, shall appoint three disinterested persons to assess the damages that may accrue to the owner of said land on which such site is located, in consequence

thereof, and when the damages so assessed are paid, the fee simple of such site shall be in the district, for the purposes hereinbefore specified.

SEC. 2. The said assessors shall return to the district clerk of [the] proper district a description of the land condemned in said county for the above purpose, which said district clerk shall record in his book wherein the proceedings are recorded.

SEC. 3. This act to be in force from and after its passage.

### CHAPTER CXXIV.

AN ACT authorizing the trustees of school district number thirteen, (13) in township thirty-six, (36) north of range three (3) west, in Laporte county, to levy a tax to build a school house.

(APPROVED JANUARY 16, 1849.)

##### SECTION

1. District trustee to levy a tax of 50 cents on the \$100 for building school house.

##### SECTION

2. How long in force.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the trustees of school district number thirteen, (13) in township thirty six, (36) north of range three (3) west, in Laporte county, be and they are hereby authorized to levy a tax upon the inhabitants of said district, at the rate of fifty cents on each and every hundred dollars valuation of property in said district, for the purpose of building a school house for the benefit of said school district.

SEC. 2. This act to take effect and be in force from and after its passage, and continue in force for the term of two years from and after the first day of January, 1849.



## CHAPTER CXXV.

AN ACT for the relief of securities of Executors, Administrators, Guardians and Commissioners to sell real estate.

[APPROVED JANUARY 16, 1849.]

SECTION 1. Securities how released from liability.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the provisions of sections one hundred and seventeen inclusive, to one hundred and thirty-five inclusive, of article fifteen, of chapter four, of the revised statutes of 1843, be and the same are hereby extended to the securities of executors, administrators, guardians, and commissioners to sell real estate.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CXXVI.

AN ACT relative to the seminary fund in Cass county.

[APPROVED JANUARY 11, 1849]

SECTION. 1. Seminary funds to be paid to Cass county and Eel river seminary society.

SECTION. 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter it shall be the duty of all officers collecting or holding any seminary funds belonging to the Cass county seminary, arising from fines assessed for breaches of the penal laws, or in any other way whatever, to pay the same over to the treasurer of the Cass county and Eel river seminary society, instead of to the county treasurer, to whom it is now required to be paid.

SEC. 2. This act to take effect and be in force from and after its passage.

## CHAPTER CXXVII.

AN ACT to authorize the president of the sinking fund commissioners to execute patents or deeds in certain cases.

[APPROVED JANUARY 15, 1849.]

WHEREAS, It is represented that in some instances the sinking fund commissioners have executed to purchasers deeds of lands which had been bid in by them for the benefit of the State, containing erroneous or defective recitals, which were not acknowledged by said commissioners, and which have not been recorded, some of such individual commissioners having [since] gone out of office; Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the president of said board of sinking fund commissioners be and he is hereby authorized and required in any and all such cases, on reasonable request, to execute to the proper purchaser or purchasers, his or their heirs and assigns, a deed or patent for such lands, under and in pursuance to an act entitled "an act to amend the several acts for loaning and collecting the sinking fund, and for other purposes," approved January 13, 1845, and any such deed or patent shall have the effect contemplated by said act.

SEC. 2. This act shall be in force from and after its passage.

## CHAPTER CXXVIII.

AN ACT authorizing the sale of certain sinking fund lands.

[APPROVED JANUARY 16, 1849.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where lands or lots mortgaged to [the] State to secure loans from the sinking fund, may have been or shall be bid in for the State, and reappraised, and shall have remained unsold for two years after such reappraisement, the board of commissioners of the sinking fund may cause another appraisement of the same, or may in their discretion sell the same at such price as may be considered fair.

SEC. 2. This act to take effect from and after its passage.



## CHAPTER CXXIX.

*AN ACT to amend an act entitled "An act to lease the Indiana State Prison, and for other purposes, approved January 16, 1846."*

(APPROVED JANUARY 16, 1849.)

## SECTION

1. Lessee may employ convicts without the walls of the prison in certain cases.
2. Warden to adopt rules for their government without the walls of the prison.
3. To appoint deputy to serve during his absence.

## SECTION

4. Lessee may or may not employ convicts in rolling iron.
5. Penalty for working convicts contrary to the provisions of this act, and how recovered.
6. When to take effect.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the lessee of the State Prison may [hereafter] employ the convicts of said prison without the walls thereof, in the making of brick upon the property belonging to the State, and in chopping and hauling wood to burn such bricks, and in digging and hauling earth to make the same, from such places as may be most convenient for said lessee not on the property of the State, and in the erection of such public buildings as may now be commenced, or may be authorized by the State hereafter to be built, adjacent to the prison, for the use of the officers of the prison, and such other purposes as may be connected with the prison proper.*

SEC. 2. It shall be the duty of the warden of said prison to make and adopt rules for the government of the convicts while being worked without the walls of said prison.

SEC. 3. The warden of the State prison during any temporary absence from such prison, shall appoint some person at the prison to discharge the duties of the warden during such temporary absence.

SEC. 4. That the lessee of the said State prison may or may not, as he shall deem best, employ the said convicts of said prison in the rolling of iron.

SEC. 5. The lessee shall in no case employ or work the convicts of said prison within the corporation of the city of Jeffersonville nor elsewhere in violation of the provisions of this act, and for each such offence or day, so offending he shall forfeit and pay for the use of common schools a sum of not more than fifteen dollars nor less than five dollars, to be recovered in an action of debt, in the name of the State, before any justice of the peace of the proper township, upon complaint and satisfactory proof, and the person making such complaint and failing to obtain judgment shall be charged with costs of such suit: *Provided, That nothing in this act shall be so construed as to prevent said lessee from doing any hauling to and from the city of Jeffersonville, immediately connected with the business of said prison.*

SEC. 6. This act to take effect and be force from and after its passage, and as soon as the lessee of said State prison shall give his consent thereto in writing, and file the same in the office of the Secretary of State.

## CHAPTER CXXX.

*AN ACT authorizing David Moss to sell certain stone in Hamilton county.*

(APPROVED JANUARY 5, 1849.)

## SECTION

1. David Moss authorized to sell certain stone.
2. To give bond—where filed.

## SECTION

3. When moneys to be paid over and to whom—compensation.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That David Moss be, and he is hereby authorized to sell for the best price which can be obtained therefor, all such stone as may be found in Hamilton county, belonging to the State of Indiana.*

SEC. 2. Said David Moss, before entering upon the discharge of the duties aforesaid, shall give bond in the sum of five hundred dollars, payable to the State of Indiana, with one or more sufficient freehold securities to be approved of by the Clerk of the Hamilton circuit court, and conditioned for the faithful discharge of his duties as provided for in this act, which bond shall be filed in the Clerk's office of said Hamilton circuit court.

SEC. 3. Said Moss shall, on the first Monday in November annually, pay over to the State Treasurer all moneys by him received from the sale of said stone, and shall be allowed for all such sales, in his settlement with the Treasurer of State, to retain five per centum on all sums by him so received, which shall be in full compensation for all his services hereby required to be by him performed.

SEC. 4. This act to be in force from and after its passage.



## CHAPTER CXXXI.

## AN ACT for the better security of the Surplus Revenue Fund in Boone county.

[APPROVED JANUARY 16, 1849.]

## SECTION

1. Auditor authorized to sell certain lands.
2. Proceeds of sale paid to treasurer, and how receipted for.
3. How loaned and appropriated.

## SECTION

3. The auditor deeming it advisable to sell on time, shall report to county board—County board to record terms of sale.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Auditor of Boone county be, and is hereby authorized to sell at private sale, after giving due notice of the terms thereof, the lands heretofore bid in by said auditor for the use of the surplus revenue, under a decree of the Boone circuit court against Daniel Heaton; and the lands bid in as aforesaid, under an execution of said court against Jonathan H. Rose, and in favor of said fund: *Provided,* That the said lands shall not be sold for a less sum than the amount of principal loaned thereon.

SEC. 2. The proceeds of such sale, when made, shall be paid into the county treasury, and the treasurer's receipt taken for the amount of principal as "loans of surplus revenue refunded," and for interest, as in other cases, which receipts shall be filed in the office of the county auditor, and the treasurer charged therewith.

SEC. 3. The sum received as principal under the provisions of this act shall be loaned out by said auditor, under the law regulating the loaning of surplus revenue, and the sum realized as interest shall be appropriated under the direction of the county board to the payment of costs incurred in obtaining the decree and judgment aforesaid.

SEC. 4. Should the auditor deem it advisable to sell said lands, or any part thereof, upon time, he shall so report to the county board of said county, who, if they are of opinion that it would be to the interest of said fund so to sell said lands, shall enter upon their record, defining the terms of sale by which the auditor shall be governed in making the same, and in such case the purchaser shall be required to give bond with sufficient security, payable to the State of Indiana, in a penal sum equal to the amount of the purchase money, conditioned that the purchaser shall not cause or suffer wear of the lands or the improvements thereon, and to surrender to the State the possession thereof on the failure of said purchaser to comply with the terms of purchase.

SEC. 5. On the full payment of the purchase money into the county treasury, as is in this act provided, the lien of the State shall be divested in favor of the purchaser, or his heirs, and the said au-

ditor shall execute, acknowledge, and deliver a deed of conveyance for the same, which shall vest the title of the State to said land in the purchaser, or purchasers, as fully and completely as the State holds the same.

SEC. 6. This act to be in force from and after the filing of a copy thereof in the office of the auditor of the county of Boone.

## CHAPTER CXXXII.

## AN ACT in relation to the Agent of State for loaning the Surplus Revenue in Clark county.

[APPROVED JANUARY 16, 1849.]

SECTION 1. Where Agent has loaned funds in his own name suit may be brought in the name of the State, and said Agent may be a witness.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where heretofore any agent of the State of Indiana for loaning the surplus revenue shall have taken notes or bonds for the same from the borrowers thereof, and their sureties, payable to such agent by name, that suit may be brought and maintained therein in the name of the State of Indiana, and on the trial of such suit, such agent may be sworn as a witness.

SEC. 2. This act to be in force from and after its passage.



## CHAPTER CXXXIII.

AN ACT to amend the 10th chapter of the Revised Statutes of 1843, in relation to the duties of county Surveyors.

(APPROVED JANUARY 16, 1849.)

## SECTION

1. County Surveyors to administer oaths in certain cases—not required to take additional oath.
2. Any person may, at their own expense, cause section corner perpetuated.
3. When not necessary to give notice to establish corner or lines.
4. To administer oath in proof of notice.
5. To record appointment of deputy—deputy to file oath with principal.

## SECTION

6. Deputies to return all filed notes to principal within 60 days.
7. Secretary of State to publish chapter 38 of 24th session of General Assembly, with general laws of present session.
8. Flag bearers and markers shall take oath for the faithful discharge of their duties to be administered by surveyors or deputy.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several county surveyors of this State shall have full power and authority to administer and certify any oath required to be taken by any commissioner for the assignment of dower, or the partition of real estate, or by any commissioner or viewer, to view, mark, locate, or relocate any public highway, and whenever any county surveyor shall be appointed any such commissioner or viewer for the purposes aforesaid, he shall not be required to take an additional oath, but the duties required of such commissioner or viewer shall be taken and construed to be a part of his official duties; and the official signature of such surveyor to any report or proceedings required of such commissioner or viewer shall be sufficient on his part.

SEC. 2. Any person may, at his or her expense, cause any original corner of any section in which he may have lands situate, to be located or perpetuated, although such lands may not adjoin such corner.

SEC. 3. Whenever it shall so happen that all the proprietors of lands adjoining any corner which any county surveyor may be required to establish or perpetuate, or any line which he may be required to view and establish, are present and thereunto consenting, or under their hands in writing shall so consent, the notice required in the 16th section of said act shall not be necessary.

SEC. 4. The several county surveyors and their deputies shall have the power to administer an oath in proof of the notice required by the 16th section of the act to which this is an amendment.

SEC. 5. Whenever any county surveyor shall appoint any deputy, he shall enter on his record such appointment, with the date thereof, and before such deputy shall be entitled to exercise any of the duties of county surveyor, he shall cause to be filed with the

principal surveyor the oath required of such surveyor, which such principal surveyor shall enter upon his record.

SEC. 6. It shall hereafter be the duty of the several deputy surveyors to return to the principal surveyor any and all field notes of any and all corners and lines by them established and perpetuated, within sixty days after the same are made.

SEC. 7. In order to enable surveyors to comply with a clause of the 23d section of the act to which this is an amendment, the Secretary of State shall cause the 68th chapter of the general laws of the 24th session of the General Assembly of this State, being a portion of Gordon's digest of the Laws of the United States,\* in relation to the mode of surveying the public lands, to be incorporated and published with the general laws of the present session.

SEC. 8. All flag bearers or markers of any line or lines, who may be employed by the county surveyors or their deputies in the performance of any official duty, shall take an oath for the faithful discharge of their duties, and such surveyors and their deputies shall administer such oath.

SEC. 9. The same fees shall be allowed county surveyors for administering any oath as are allowed justices of the peace for similar services.

SEC. 10. That this act shall be in force from and after its passage.

\* See addenda to this vol.

## CHAPTER CXXXIV.

AN ACT to amend an act, entitled, "an act to amend article 5, of chapter 45, of the Revised Code of 1843," approved February 16, 1848.

(APPROVED JANUARY 16, 1849.)

SECTION 1. Provisions of an act extended to cases when annual rent does not exceed the value of \$100.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of an act, entitled, "an act to amend article five, chapter forty-five, of the Revised Code of 1843," approved February 16, 1848, be, and the same is hereby so amended as to extend the provisions of said section and said act to all cases where the rent demanded or the value of the annual rent of the premises of which possession is sought, does not exceed the sum of one hundred dollars.



SEC. 2. This act to be in force from and after its publication among the general laws passed at the present session of the General Assembly of this State.

### CHAPTER CXXXV.

AN ACT to prevent Treasurers and other officers in the counties of Steuben, De Kalb, and Noble from receiving constructive per centage.

[APPROVED JANUARY 16, 1849.]

SECTION 1. Treasurers not to receive per centage on receipts for road tax in certain counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That county Treasurers and other officers in the counties of Steuben, De Kalb, and Noble, entrusted with the care, collection, and disbursment of the revenue for State, county, and road purposes shall not be allowed to charge or receive per centage on receipts, which may be filed for payment of taxes for road purposes.

SEC. 3. This act to take effect and be in force from and after its passage.

### CHAPTER CXXXVI.

AN ACT defining the duties of county Treasurers in several counties therein named.

(APPROVED JANUARY 15, 1849.)

SECTION 1. Treasurers of certain counties therein named not required to attend at places of	SECTION elections to receive revenue, unless ordered by the county Board. 2. Repealing clause.
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SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall not be obligatory upon the Treasurers and Collectors of the several counties of Porter, Laporte, Jefferson, La-grange, Cass, Henry, Elkhart, Noble, and Warrick, to attend at the

place of holding elections, for the purpose of collecting and receiving the revenue, unless the Board of county Commissioners of the proper county shall order him so to do. The provision of this section shall equally apply to the counties of St. Joseph, White, and Grant.

SEC. 2. This act shall be in force from and after its passage, and all laws conflicting with the provisions of this act are hereby repealed, so far as the same relates to the counties aforesaid.

### CHAPTER CXXXVII.

AN ACT to amend the first article, of chapter seven, of the Revised Statutes of 1843.

(APPROVED JANUARY 16, 1849.)

SECTION 1. County Boards may furnish Treasurers with suitable office.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Board doing county business in the several counties of this State, may, in addition to the duties defined in the 21st section of the first article of chapter seven of the Revised Statutes of 1843, furnish the county Treasurer an office suitable for the transaction of his official business at the county seat.

SEC. 2. This act to be in force from and after its passage.

### CHAPTER CXXXVIII.

AN ACT to amend the Statute providing for the taking a change of venue in criminal cases.

(APPROVED JANUARY 16, 1849.)

SECTION 1. Defendants in criminal cases, may petition for change of venue. 2. What the petition is to set forth. 3. Court to grant change of venue and where awarded — second charge not granted	SECTION unless in the sound discretion of the court. 4. Repealing clause—certified copy to be published.
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SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all criminal cases which may be pending in any



of the circuit courts of this State, any defendant therein may petition the court for a change of venue to another county of the same or another circuit, as the case may require.

SEC. 2. Such petition shall set forth the nature of the prosecution, the court where the same is pending, and that such petitioner will not receive a fair and impartial trial owing to the prejudice of the president judge, or of the associate judges of such court, or to the excitement and prejudice against him the petitioner in such county, and shall be verified by his affidavit, stating the same to be true, as he verily believes.

SEC. 3. Such court shall grant such change of venue; and if the same is prayed on the ground of objections to the president judge, such change shall be awarded to some convenient county of an adjoining circuit; or if such change is prayed on the ground of objections against the associate judges, or of excitement and prejudice in the county, such change shall be awarded to the nearest and most convenient county of the same circuit: *Provided*, That in no criminal case shall a change of venue be granted a second time, unless the judges of the court to which such change shall have been previously awarded, shall, in the exercise of a fair and sound discretion, grant such change of venue a second time.

SEC. 4. This act shall be in force from and after its passage, and all laws and parts of laws which conflict with this act are hereby repealed; and it shall be the duty of the Secretary of State, as early as practicable, to cause a certified copy of this act to be published in the Indiana State Journal and Indiana State Sentinel.

#### CHAPTER CXXXIX.

##### AN ACT declaring certain acts therein named in full force..

###### SECTION

1. Certain laws for assessment of damages on Wabash and Erie canal declared to be in full force.

###### SECTION

2. The board of trustees to perform all acts and duties required by Board of Internal Improvements.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the seventeenth section of an act entitled "an act to provide for a general system of internal improvements," approved January 27th, 1830, and an act amending thereof, approved February 17th, 1838, be and the same are hereby declared to be in full force in all cases of claims for assessments of damages on the Wabash and Erie Canal.

SEC. 2. That the board of trustees of Wabash and Erie Canal

shall perform all the acts and duties required in said acts, to be discharged by the board of internal improvements, and by every member thereof failing as the superintendent of any particular work.

[The above bill was not presented to me until within less than five days before the adjournment of the last session, and not having been returned or approved to the present time, it has become a law.

December 7th, 1848.

JAS. WHITCOMB.]

#### CHAPTER CXL.

AN ACT to amend an act entitled "an act to authorize the Superintendent of the Wabash and Erie Canal to pay such equitable claims as counties and individuals may have for surveying and locating the canal from Tippecanoe to Terre Haute," approved January 25, 1847.

SECTION 1. Board of Trustees of Wabash and Erie Canal required to pay lawful interest on certain claims.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Superintendent or trustees of the Wabash and Erie Canal be, and they are hereby directed to pay lawful interest on all claims by him or them so allowed by virtue of the above recited act, the interest to be computed from the day of advancement.

SEC. 2. This act to be in force from and after its passage.

[The foregoing bill not having been presented to me until within less than five days before the adjournment of the last session, and not having been returned or approved before this fourth day of the present session, the same has become a law, December 7th, 1848.

JAMES WHITCOMB.]



## CHAPTER CXLI.

AN ACT to repeal so much of an act entitled "an act to encourage the raising of sheep and hogs, and to increase the revenue of the State, and the wealth of the people," as relates to Jasper county.

(APPROVED JANUARY 12, 1849.)

SECTION 1. Repeal of a certain act as to Jasper county—county board not authorized to pay a premium for wolf scalps.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the act entitled "an act to encourage the arising of sheep and hogs, and to increase the revenue of the State, and the wealth of the people," approved February 24, 1840, as relates to the county of Jasper, be and the same is hereby repealed; and hereafter the board doing county business in the county of Jasper shall not be authorized or required to pay a premium on wolf scalps, as required by said act.

## JOINT RESOLUTIONS

OF THE

## GENERAL ASSEMBLY OF INDIANA.

## CHAPTER I.

A Joint Resolution instructing our Senators in Congress, and requesting our Representatives, to use their influence to procure a donation by Congress of four thousand acres of land in the Miami Reserve, for the use of the Indiana University, in lieu of four thousand acres conferred by Congress to the President and Trustees of the Vincennes University, out of the two sections of land previously granted by Congress to the State of Indiana, for the use of the Indiana Seminary, in the counties of Gibson and Monroe.

[APPROVED JANUARY 16, 1849.]

WHEREAS, Congress by their act of April 16, 1816, vested in the State of Indiana for the use of a Seminary of learning, two entire townships of land in Gibson county, and Monroe county:

AND WHEREAS, Previous to that time, the President and Trustees of the Vincennes University, without any colour of title, sold four thousand acres of said land to different persons, which sale so made, Congress by their act of April 22, 1816, confirmed to the said purchasers; Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure the passage of a law donating to this State for the use of the Indiana University four thousand acres of land in the Miami Reserve in this State, in lieu of four thousand acres of land confirmed by Congress to the President and Trustees of the Vincennes University, out of the two townships of land previously granted by Congress to the State of Indiana, for the use of the Indiana Seminary, in the counties of Gibson and Monroe.



*And be it further Resolved*, That our Senators be instructed, and our Representatives be requested to vote for and use their influence to procure a grant of the public lands in the Miami Reserve, to Congressional township No. 27 north, range 6 east, equal in value to five hundred acres of the 16th section which was lost to said township by being reserved to J. B. Richardville, in the treaty of 1838.

*Resolved*, That the Governor be requested to forward certified copies of this resolution to each of our Senators and Representatives in Congress.

## CHAPTER II.

A Joint Resolution in relation to the navigation of the Kankakee and Iroquois Rivers in the States of Indiana and Illinois.

(APPROVED JANUARY 16, 1849.)

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be instructed, and our Representatives requested, to vote for and use their best endeavors to procure the passage of a law by the present Congress, granting every alternate section of land belonging to the United States, along the Iroquois rivers, in the States of Indiana and Illinois, for two miles in width on each side thereof, for the purpose of improving the Slack Water Navigation of said rivers, and draining the wet lands bordering thereon.

*Be it further Resolved*, That the Governor of this State be requested to transmit copies of the forgoing resolution to each of our Senators and Representatives in Congress.

## CHAPTER III.

A Joint Resolution relative to the Harbor at Michigan City.

(APPROVED JANUARY 16, 1849.)

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be instructed, and our Representatives re-

quested, to vote for and procure an appropriation for the speedy completion of the Harbor at Michigan City, and to improve the St. Joseph, and mouth of St. Joseph river.

*Resolved further*, That his Excellency, the Governor, be requested to forward a copy of the foregoing resolution to each of our Senators and Representatives in Congress.

## CHAPTER IV.

A Joint Resolution in relation to Soldiers of the War with Great Britain.

(APPROVED JANUARY 16, 1849.)

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress are hereby instructed, and our Representatives requested, to use their influence to procure the passage of a law extending to Soldiers of the late War with Great Britain, and also, the Soldiers who were engaged in the Wars with the Indians, under Hamer, St. Clair, Wayne, Harrison, Jackson, and others, the same donations of bounty land and extra pay as have been made to the Soldiers engaged with Mexico.

*And be it further resolved*, That his Excellency, the Governor of the State of Indiana, be requested to forward to each of our Senators and Representatives in Congress, a copy of this resolution.

## CHAPTER V.

A Joint Resolution in relation to certain Official Documents connected with the conduct of the Second Indiana Regiment.

(APPROVED JANUARY 16, 1849.)

*Be it resolved by the General Assembly of the State of Indiana*, That our Representatives in Congress be requested, and our Senators instructed, to cause to be placed on the files of the War Department, for permanent reference, the minutes of the Court of Inquiry, called to inquire into the conduct of General Joseph Lane; and also,



of the Court of Inquiry, called to inquire into the conduct of Colonel Wm. A. Bowles, on the 23d of February, 1847.

[*Be it further Resolved,*] That it shall be the duty of the Governor of this State to forward to each of our Senators and Representatives in Congress a duly certified copy of this Resolution.

## CHAPTER VI.

A Joint Resolution relative to the right of way of the Ohio and Mississippi Rail Road in the State of Illinois.

[APPROVED DECEMBER 30, 1848.]

WHEREAS, By an act of the General Assembly of the State of Indiana at its last session, a charter was granted to the Ohio and Mississippi Rail Road Company, to construct a rail-way from the Ohio river at Cincinnati, in a direct line to the Mississippi river at St. Louis:

AND WHEREAS, Said company has been organized under said charter, and are prosecuting with energy all the preparatory measures towards the speedy completion of this great projected thoroughfare:

AND WHEREAS, It is understood that application will be made to the General Assembly of the State of Illinois for the right of way for the extension of said rail-way through that State; therefore

*Be it resolved by the General Assembly of the State of Indiana,* That the General Assembly of the State of Illinois be respectfully requested, to grant such right of way to said company, with all the necessary and proper protections to the same, should application be made therefor.

*Resolved further,* That his Excellency, the Governor, be requested to transmit a certified copy of the foregoing preamble and resolution to his Excellency, the Governor of Illinois, with a request that he lay the same before the General Assembly of that State.

## CHAPTER VII.

A Joint Resolution relative to the right of way for a Rail-way in Illinois.

[APPROVED DECEMBER 30, 1848.]

WHEREAS, Charters have been granted by the States of Ohio and Indiana to companies to construct a continuous line of rail road from the Lakes, running through the State of Ohio and the centre of the State of Indiana, and terminating on the western line of said State, near Terre Haute, on the Wabash river, on the direct route to St. Louis, on the Mississippi river:

AND WHEREAS, Companies have been organized under their charters and are actively engaged in the prosecution of their respective links in the chain:

AND WHEREAS, It is important to the interests of those companies, and others intersecting the line as well as to a large number of the citizens of this State, that said line should be extended across the State of Illinois, from Terre Herre, to St. Louis, on the Mississippi river:

AND WHEREAS, It has been represented to this Legislature, that application will be made to the Legislature of Illinois at its next session to charter a company or companies to construct said extension of said line of rail-way: therefore,

*Resolved,* That the Legislature of the State of Illinois be respectfully requested to grant such charters including the right of way, should application be made therefor.

*Resolved,* That this joint resolution be in force from and after its passage, and that the Governor send a certified copy of the same to the Governor of the State of Illinois, with a request that he lay the same before the Legislature of that State.

## CHAPTER VIII.

A Joint Resolution relative to the scrip account between the State of Indiana and the Trustees of the Wabash and Erie Canal.

[APPROVED JANUARY 16, 1849.]

*Resolved by the General Assembly of the State of Indiana,* That the Auditor and Treasurer of State be, and they are hereby authorized



during the recess of the Legislature, to adjust and settle the scrip account of the Wabash and Erie Canal east and West of Tippecanoe, with the Trustees of said canal, and fix the amount outstanding, which said Trustees are bound to redeem, and report the same to the next Legislature for its confirmation: *Provided*, That no action of said Auditor and Treasurer shall be construed so as to permit the Trustees of the Wabash and Erie Canal to refuse canal land scrip when tendered in payment for debt due said Trustees for Wabash and Erie Canal lands.

## CHAPTER IX.

Joint Resolution on the independence of Liberia.

(APPROVED JANUARY 17, 1849.)

WHEREAS, The Colony of Liberia has put forth to the world a declaration of independence, in which it claims the right of [a] sovereign State, and has adopted a liberal constitution and civil policy, similar in kind to that of the United States, and has implored the nations of the earth to recognize her independence and sovereignty as a nation:

AND WHEREAS, The governments of France and Great Britain have fully recognized the independence and sovereignty of the Republic of Liberia, and have established liberal treaties of commerce with her, and have placed at the disposal of her President, several ships of war, the better to enable him to protect his commerce and guard his coast:

AND WHEREAS, It is necessary to the success of colonization that we should honor the rising Republic of Liberia and make it as attractive as possible; wherefore

*Be it resolved by the General Assembly of the State of Indiana, That our Senators and Representatives in Congress be, and they are hereby requested, in the name of the State of Indiana, to solicit and procure from our General Government, a recognition of the independence and sovereignty of the Republic of Liberia.*

## CHAPTER X.

A Joint resolution to authorize the purchase of a picture of the Tippecanoe Battle Ground, now in the State Library.

(APPROVED JANUARY 16, 1849.)

*Be it resolved by the General Assembly of the State of Indiana, That the State Librarian be and he is hereby authorized to purchase, at a price not exceeding one hundred dollars, the painting now in the State Library rooms, representing a view of the Battle Ground of Tippecanoe.*

## CHAPTER XI.

A Joint Resolution in relation to State instruments.

(APPROVED JANUARY 15, 1849.)

WHEREAS, The State of Indiana did at one time own a considerable amount of engineer and surveying instruments;

AND WHEREAS, There does not appear to have been any appropriate disposition made of said instruments at the time the State of Indiana suspended her system of internal improvements, but they are in other hands than those of officers of the State;

AND WHEREAS, it is desirable and proper that said instruments should be collected and placed at the disposal of the State; therefore

*Be it resolved by the General Assembly of the State of Indiana, That the State Librarian be directed, either personally or by an agent whom he may employ, to collect, from engineers formerly in the employ of the State, or from other individuals in whose hands they may be found, all such instruments as he may be able to obtain, and that he report to the General Assembly of the State of Indiana, at its next session, what he may have done in the premises.*

*And be it further resolved, That any individual or corporate body, who may have in his or their possession, any of the instruments aforesaid, and who shall, upon the request of the State Librarian or his authorized agent, neglect or refuse to deliver the same, together with all the apparatus thereto belonging, he or they shall be liable in twice the value of all the instruments and apparatus so*



withheld ; said sum to be collected by an action of debt, at the suit of the State Librarian or his agent, without the defendant being allowed to claim the benefit of any valuation, appraisement, or stay law.

## CHAPTER XII.

A Joint Resolution on the subject of donating lands by the General Government.

(APPROVED JANUARY 13, 1849.)

WHEREAS, Various acts have been passed by the respective Legislatures of the Western States, authorizing the construction, by companies, of various lines of railroads, connecting the most important business points of the northern portions of the United States with the centre and the south, and those of the east with the west, thereby providing for the speedy and certain transportation of the United States mails, troops, and munitions of war, and all other kinds of United States property, and also causing thereby a speedy sale of the public lands within the vicinity of said lines of rail roads, with all the benefits resulting from such sales to the United States Treasury, and the respective States within which such lands are situate, together with incalculable benefits to individuals generally. Therefore,

*Be it resolved by the General Assembly of the State of Indiana, That the Congress of the United States be and it is hereby memorialized to pass laws donating alternate sections of the public lands for ten miles wide on each side of said lines of rail road, together with pre-emption rights to the remaining alternate sections for ten years, at the increased price of two dollars and fifty cents per acre, to the several States in which such various rail roads are situate to be used by said States for such purposes and for none other.*

*And be it further resolved, That our Senators in Congress be instructed and our Representatives requested to introduce bills in their respective Houses, providing for the donation of public lands for the purpose of aiding in the construction of the rail roads within the State of Indiana, and also to render all aid and assistance in their power to secure the passage of similar laws for the assistance of their sister States of the West.*

*And be it further resolved, That the Governor be and he is hereby directed to transmit certified copies of this joint resolution to each of our Senators and Representatives in Congress.*

## CHAPTER XIII.

A Joint Resolution on the subject of publishing the General Laws of the present session,

[APPROVED JANUARY 13, 1849.]

*Be it resolved by the General Assembly of the State of Indiana, That the State Printer is hereby directed to publish, at the earliest practicable period after the adjournment of the present General Assembly, all the laws of a general nature, passed at this session, and that as soon as the same are published, he shall send, by mail, one copy of such laws to the Clerk of the Circuit Court of each county of this State.*

## CHAPTER XIV.

A Joint Resolution in relation to the time of payment of the semi-annual interest due to the bondholders of this State.

(APPROVED JANUARY 5, 1849.)

WHEREAS, The annual payments of revenue do not fall due at the Treasury in time to pay the January instalment of interest on the State debt, and, in consequence, legislative provision becomes every year necessary to authorize the negotiation of temporary loans to meet said payments ;

AND WHEREAS, to provide against the failure of making such payment at any future period, for want of legislative action in the premises, and to avoid the necessity for temporary loans, it is desirable to effect with the stockholders an equitable arrangement to postpone the payment of the January instalment ; therefore,

*Be it resolved by the General Assembly of the State of Indiana, That the Agent of State be and he is hereby authorized and instructed to correspond and negotiate with the stockholders, and upon equitable terms contract with them to postpone the time of payment of the January instalment of interest to some convenient time after the 1st of March, annually ; and said Agent is hereby further authorized to contract on the part of the State to unite the January and July instalments or dividends, and to agree with said stockholders to pay said instalments in one annual payment, on the first day of July, or at any subsequent period that may be stipulated and agreed upon by the contracting parties.*



*Be it further resolved*, That his excellency, the Governor be requested to forward a copy of this joint resolution to James Collins, Agent of State, in the city of New York.

## CHAPTER XV.

A Joint Resolution in relation to the contract between the State and her Bond-holders.

(APPROVED JANUARY 16, 1849.)

WHEREAS, by the act approved January 19, 1846, entitled, "an act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," it was among other things provided that the Trustees created by said act should do all the acts needful and proper in and about the sale of said Canal lands, and the completion of said Canal to Evansville and particularly the side cuts and locks to the Wabash river, on sections one hundred and thirty-six, or one hundred and thirty-seven, between Coal Creek and Terre Haute, and on section thirty-three, or thirty-four, and forty-six, as heretofore surveyed between Coal Creek and Lafayette, heretofore contemplated :

AND WHEREAS, by the act supplementary thereto, approved 27th January, 1847, it was provided that where said Canal has already been so constructed beyond any point where such feeders or side cuts are located and intended to be constructed as specified in the act to which this is a supplement, it shall be the duty of the said Trustees to construct and complete all such feeders and side cuts within eighteen months from and after the acceptance of this act by our Bond-holders :

AND WHEREAS, by the terms of the said act, the time fixed for the construction and completion of the side cuts opposite the towns of Williamsport and Independence, in the county of Warren, being upon sections thirty-three or thirty-four, and forty-six, specified in said act, has now expired :

AND WHEREAS, no steps whatever have been taken by the said Trustees for the construction and completion thereof; but on the contrary, the said Trustees in their annual report have alleged excuses for the neglect of the said duty :

AND WHEREAS, the judicial tribunals are the proper places where the said excuses for the breach of the said contract shall be investigated and determined.

[SECTION 1.] *Be it therefore Resolved by the General Assembly of the State of Indiana*, That the Governor be and he is hereby authorized

and required to commence a suit in the Montgomery Circuit Court at the next term thereof, on the chancery or law side thereof, on behalf of the State of Indiana against the Trustees of the Wabash and Erie Canal, for a specific performance of the said contract in the construction of the side cuts opposite the towns of Williamsport and Independence, as provided for in the said acts, or for a breach of the said contract, and to prosecute the same to a final decree thereon: *Provided, however*, That if the said Trustees proceed in good faith to put said side cuts under contract previous to the time herein specified for the commencement of said suit, of which the Governor shall by them be officially notified, and otherwise give satisfactory assurance that said works will be completed without further delay, then the suit herein contemplated in reference to said works, shall not be instituted against said Trustees.

SEC. 2. It shall be the duty of the Governor to appoint one or more competent counsel to institute and prosecute to final judgment or decree, the said suit.

SEC. 3. Either party may have an appeal from the Circuit Court to the Supreme Court, but in case of an appeal by the State, no appeal bond shall be required.

SEC. 4. The State shall not be responsible for any costs occasioned by the proceedings which may be instituted as aforesaid.

SEC. 5. Process may be sent to any county of this State, and a service upon any one of the said Trustees, shall be sufficient service thereof.

SEC. 6. That it shall be the duty of the Governor to prosecute in like manner the Trustees of the Wabash and Erie Canal for any violation of the provisions of the above recited acts, and particularly those provisions requiring the re-appraisement of the Wabash and Erie Canal lands and the constructing and keeping in repair bridges across the Wabash and Erie Canal, whenever a State or county road crosses the same.

SEC. 7. All prosecutions authorized to be instituted by the provisions of this joint resolution, shall be instituted in the county where the violation occurs on which suit is brought, except, however, the case provided for in the first section of the resolution.

SEC. 8. This joint resolution shall take effect and be in force from and after its passage.



## CHAPTER XVI.

A Joint Resolution authorizing an additional subscription by the State in the stock of the Indianapolis and Madison Railroad company, and for the sale of the same.

(APPROVED JANUARY 16, 1849.)

WHEREAS, The Board of Directors of the Madison and Indianapolis Railroad company in August last authorized an increase of stock in said company, giving a preference to the stockholders, *pro rata*, in the subscription to the same:

AND WHEREAS, By resolution of the Board, the State has a right to subscribe for one hundred and seven shares of the said stock until the first day of February next: Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That the Auditor of State is hereby authorized and required to subscribe for one hundred and seven shares in the capital stock of the Madison and Indianapolis Railroad company.

*Be it further resolved*, That the Auditor of State is hereby authorized and required to make sale, for cash, of the said stock, not under its par value, authorized to be subscribed for as aforesaid, for the best price he can obtain for the same: *Provided, however*, That no sale shall be made thereof, without first having given in some public newspaper at Indianapolis, thirty days notice thereof. And that said Auditor have full power and authority to make the proper transfer or transfers of the same to the purchaser or purchasers, and that the premium or advance that may be obtained over the par value of said stock be passed by said Auditor to the credit of the Treasurer of State.

This joint resolution to take effect and be in full force from and after its passage.

## CHAPTER XVII.

A Joint Resolution in relation to the Indianapolis and Peru Rail Road.

(APPROVED JANUARY 16, 1849.)

WHEREAS, There is now being constructed a Rail Road from the city of Indianapolis to the town of Peru, on the Wabash and Erie Ca-

nal, whereby a direct communication will be had between the great Northern Lakes and the waters of the Mississippi:

AND WHEREAS, This line of road passes through large portions of the lands belonging to the General Government which will be much enhanced in value by the construction of said road, and without some such improvement through that section of country, affording means of transportation, must remain uninhabited, unsold, and in a great degree valueless:

AND WHEREAS, for the direct purpose of enhancing the value and hastening the sale of the residue of the public lands it has hitherto been the policy of Congress to grant a portion of contiguous lands for the construction of public works for travel and transportation; Therefore,

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be instructed, and our Representatives requested, to use their votes and influence to procure a grant of a portion of the unsold lands in the Miami Reserve, along the line of said road, to aid in the construction of said road, and on condition that the troops and munitions of war, of the United States shall have free passage and transportation on said road in time of war forever.

*And be it further resolved*, That the Governor be requested to transmit copies of this joint resolution to our Senators and Representatives in Congress.

## CHAPTER XVIII.

A Joint Resolution in relation to the postage on Newspapers and Public Documents.

(APPROVED DECEMBER 27, 1849.)

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress are hereby instructed, and our Representatives requested, to procure, if possible, a change in the postage law, so that all Documents printed by authority of this State, and all Newspapers ordered for distribution among the people by the Legislature, shall be carried in the United States mail free of postage.

*And be it further resolved*, That his Excellency, the Governor, be directed to transmit to each of our Senators and Representatives in Congress, a duly certified copy of the foregoing resolution.



## CHAPTER XIX.

A Joint Resolution in relation to the Second and Third Regiments of Indiana Volunteers.

(APPROVED JANUARY 15, 1849.)

*Be it resolved by the General Assembly of the State of Indiana, That our Representatives in Congress be requested, and our Senators are hereby instructed, to use their influence and votes in Congress to place upon the records of the Nation, and upon the files of the War Department of the General Government, all the facts relative to the conduct of the Indiana Troops in the battle of "Buena Vista," in order that the reputation of those brave men, and the honor of this State, may be fully vindicated, not only before the present generation, but with posterity.*

*Resolved further, That it shall be the duty of the Governor of this State to forward to each of our Representatives and Senators in Congress, an authenticated copy of this joint resolution.*

## CHAPTER XX.

A Joint Resolution in relation to the Seat of Government of the United States.

(APPROVED JANUARY 16, 1849.)

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed, and our Representatives requested, to use their influence and vote for a law removing the Seat of the Federal Government to the Valley of the Mississippi.*

SEC. 2. [*Be it further*] *Resolved, That the Governor be requested to forward to each of our Senators and Representatives in Congress a copy of this Resolution.*

## CHAPTER XXI.

A Joint Resolution relative to Land selected by the State of Indiana for Canal purposes.

[APPROVED JANUARY 12, 1849.]

WHEREAS, The State of Indiana, under the authority of an act of Congress entitled "An act to confirm to the State of Indiana the land selected by her for that portion of the Wabash and Erie Canal which lies between the mouth of the Tippecanoe river and Terre Haute, and for other purposes," approved February 27, 1841, acquired a title to certain lands selected by John Vawter, William Elliott, Johnson Watts, and A. W. Morris, Commissioners appointed by the Governor of said State for that purpose, which selection was made under the provisions of an act of the 2d of March, 1827, entitled "An act to grant a certain quantity of land to the State of Indiana for the purpose of aiding the State in opening a Canal to connect the waters of the Wabash with those of Lake Erie:"

AND WHEREAS, There is no record evidence of the title of said State to said lands, or any other of the lands donated to the State for the purpose of constructing said Canal, on file in the office of the Secretary of State:

AND WHEREAS, The Register of the Land Office of the United States at Winnemac, in which Land Office District a portion of said lands lies, he offered the same at public sale, as lands belonging to the United States, and still holds the same in market, subject to private entry; giving as a reason for so doing, that there is nothing in his office showing that said lands have been confirmed to said State, and that he has no directions from the General Land Office Department to withhold the same from sale: Therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be, and they are hereby instructed, and our Representatives requested, to use their exertions to procure the passage of a law requiring the Commissioner of the General Land Office of the United States to transmit to the Secretary of State of the State of Indiana, a statement under his hand and official seal, specifying the particular Sections, Quarter Sections, and Fractional Sections of land which have been confirmed to said State for Canal purposes, and to require said Commissioner to transmit to each of the Registers of the Land Offices of the United States, in whose District any of said lands may lie, a statement showing specifically the lands so confirmed to said State for the purposes aforesaid, within their respective Land Office Districts.*



SEC. 2. *Be it further resolved*, That his excellency, the Governor, be and he is hereby requested, to forward to each of our Senators and Representatives in Congress a copy of this Preamble and Resolutions, as soon as practicable.

## CHAPTER XXII.

A Joint Resolution on the subject of the Three Per Cent. Fund.

[APPROVED JANUARY 16, 1849.]

WHEREAS, By the Act of Congress, approved April 19, 1816, entitled "An act to enable the people of the Indiana Territory to form a Constitution and State Government, &c.," certain propositions were offered to the Convention by the people of said Territory for its free acceptance or rejection, which, if accepted by said Convention, were declared to be obligatory upon the United States :  
AND WHEREAS, One of said propositions was as follows : "That five per cent. of the nett proceeds of the lands lying within the said Territory, and which should be sold by Congress from and after the first day of December, 1816, after deducting all expenses incident to the same, should be reserved for making public Roads and Canals, of which *three-fifths* should be applied to those objects within the said State, under the direction of the Legislature thereof, and *two-fifths* to the making of a road or roads leading to the said State under the direction of Congress :"

AND WHEREAS, By the Ordinance of said Convention, passed June 29, 1816, the said propositions were accepted :

AND WHEREAS, Congress, by a Joint Resolution, approved 3d March, 1845, directed the Secretary of the Treasury of the United States, "whenever any State shall have been, or may be, in default for the payment of interest, or principal, on investments in stocks or bonds held by the United States in trust, to retain certain moneys to which such State is entitled for the purposes therein named :"

AND WHEREAS, The said Secretary of the Treasury, by the authority of said Joint Resolution has detained, and does withhold from the said State of Indiana, all the said *three per cent.* accrued since the first July, 1844, on account of interest due from said State on certain bonds held by the United States in trust for certain Indian Tribes :

AND WHEREAS, Many of the counties of this State, in expectation of the regular and usual payment to them of said three per cent. fund, have entered into contracts for the making and repairing of roads and bridges, but have been unable to pay the individuals who have made and repaired the same, by reason of the said fund having been withheld as aforesaid : Therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That in their opinion, the said Joint Resolution of Congress, empowering the said Secretary to withhold the payment of said three per cent. fund, is a violation of the said proposition embraced in the said act of April 19, 1816.

SEC. 3. *And be it further resolved*, That in the opinion of this General Assembly, the Legislature of the State of Indiana, by the said act of Congress, of 19th April, 1816, was made a *Trustee* for the disposal of said three per cent. fund for the accomplishment of the objects in said act mentioned, and that by no act of Congress, or of the said Legislature, unless by the consent of the people of Indiana first obtained, can the said fund be withheld or diverted to any other purpose or object.

SEC. 2. *And be it further resolved*, That our Senators be instructed, and our Representatives in Congress be requested, to vote for and use their influence to procure the passage of an act or Joint Resolution, repealing the said Joint Resolution of Congress, passed March 3d, 1845, and requesting [requiring] the said Secretary of the Treasury to cause to be paid to the State of Indiana, all funds withheld from it by the authority of said Joint Resolution.

SEC. 4. *And be it further Resolved*, That the Governor of this State be requested to transmit to our said Senators and Representatives copies of the foregoing Preamble and Resolution.

## CHAPTER XXIII.

A Joint Resolution relative to the reduction of the price of Public Lands in the Great Miami National Reserve.

[APPROVED JANUARY 10, 1849.]

WHEREAS, The policy of the General Government, long since established, has been to dispose of the Public Lands at one dollar and twenty-five cents per acre :



AND WHEREAS, All the Public Lands surrounding the Great Miami Reserve, after having been offered at public sale, was and is subject to entry for the price of one dollar and twenty-five cents per acre, without regard to quality:

AND WHEREAS, The choice portions of said Reserve have been reserved by Indians, selected by the State of Indiana, pre-empted by actual settlers, and purchased by speculators, leaving for a fifth choice an inferior quality of land, for which the General Government demands two dollars per acre: therefore,

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be and they are hereby instructed, and our Representatives requested, to place this matter before Congress, and to vote for a law reducing the price of the Public Land in said Reserve to one dollar and twenty-five cents per acre.

SEC. 2. *Be it further resolved*, That the Governor of this State be and he is hereby requested to forward, at as early a day as practicable, a copy of this preamble and joint resolution to each of our Senators and Representatives in Congress.

#### CHAPTER XXIV.

A Joint Resolution in relation to the existing Post Office Laws.

(APPROVED JANUARY 1, 1849.)

*Be it resolved by the General Assembly of the State of Indiana*, That our Senators in Congress be and they are hereby instructed, and our Representatives requested, to use their exertions to procure the repeal of so much of the existing post office law as requires the prepayment of postage on newspapers not sent from the office of publication; also, a general reduction of postage on newspapers, pamphlets, and periodical publications.

*Resolved further*, That the Governor be and he is hereby requested to transmit a copy of these joint resolutions to each of our Senators and Representatives in Congress.

#### CHAPTER XXV.

A Joint Resolution authorizing the Governor or Agent of State to make sale of all or any real estate owned by the State of Indiana in the State of Georgia.

(APPROVED JANUARY 16, 1849.)

SECTION 1. *Be it resolved by the General Assembly of the State of Indiana*, That the Governor or Agent of State be and [the] same is hereby authorized to make sale and dispose of all the right, title or interest, which the State may hold or possess in any real estate situated in the State of Georgia, and the said Governor or Agent of State, as the case may be, [be] and is hereby authorized to convey, in the name of the State of Indiana, to the purchaser or purchasers, all the interest or title which the State may hold or possess in any such lands: *Provided, however*, That neither the Governor nor [the] Agent of State shall be authorized to sell said lands for a less sum than one thousand dollars.

SEC. 2. This joint resolution shall be in force from and after its passage and approval.



## ADDENDUM.

ARTICLE	ARTICLE
1208. Lands to be surveyed into townships, sections, half sections, &c.	1212. Penalty for hindering the survey of public lands.
1209. Boundaries and contents of sections, half sections, &c., how ascertained.	1213. Marshals may be ordered to protect surveyors, when.
1210. Quarter sections, how divided.	1214. Special mode of survey on line between Indiana and Illinois.
1211. Departure from ordinary mode of survey admitted, when.	

### OF THE MODE OF SURVEYING PUBLIC LANDS.

*From Gordon's Digest of the Laws of the United States, published under the provisions of an act entitled "an act in relation to county surveyors, approved February 12, 1840."*

ART. 1208. The public lands lying northwest of the river Ohio and above the mouth of the river Kentucky, in which the title of the Indian tribes has been extinguished, shall be divided by north and south lines, running according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of the late Indian purchase, or of tracts of land heretofore surveyed or patented, or the course of navigable rivers, may render it impracticable; and then this rule shall be departed from no further than such particular circumstances may require. The corners of the townships shall be marked with progressive numbers, from the beginning: each distance of a mile between the said corners shall be also distinctly marked, with marks different from those of the corners. One-half of the said townships, taking them alternately, shall be sub-divided into sections, containing as nearly as may be, six hundred and forty acres each, by running through the same, each way, parallel lines, at the end of every two miles; and by marking a corner on each of the said lines, at the end of every mile; the sections shall be numbered, respectively, beginning with the number one in the north east section, and proceeding west and east alternately through the township, with progressive numbers till the thirty-sixth be completed. And it shall be the duty of the deputy surveyors, respectively, to cause to be marked, on a tree near each corner, made as aforesaid, and within the section, the number of such section, and over it the number of the township with-



in which such section may be; and the said deputy shall carefully note, in their respective field books, the names of the corner trees marked, and the numbers so made. The fractional parts of townships shall be divided into sections, in manner aforesaid; and the fractions of sections shall be annexed to and sold, with the adjacent entire sections. All lines shall be plainly marked on trees, and measured with chains, containing two perches of sixteen feet and one-half each, subdivided into twenty-five equal links, and the chain shall be adjusted to a standard to be kept for that purpose. Every surveyor shall note in his field book, the true situations of all mines, salt licks, salt springs, and mill seats, which shall come to his knowledge; all water courses, over which the line he runs shall pass; and also the quality of the lands: These field books shall be returned to the surveyor general, who shall therefrom cause a description of the whole lands surveyed, to be made out and transmitted to the officers who may superintend the sales: He shall also cause a fair plat to be made of the townships, and fractional parts of townships, contained in the said land, describing the subdivisions thereof, and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; a copy thereof shall be kept open at surveyor general's office, for public information; and other copies sent to the places of the sale, and to the secretary of the treasury.

The surveyor general shall cause townships west of the Muskingum, which, by the preceding article, are directed to be sold in quarter townships, to be subdivided into half sections of three hundred and twenty acres each, as nearly as may be, by running parallel lines through the same from east to west, and from south to north, at the distance of one mile from each other, and marking corners, at the distance of each half mile on the lines running from east to west, at the distance of each mile on those running from south to north, and making the marks, notes, and descriptions prescribed to surveyors by the preceding article. And the interior lines of townships intersected by the Muskingum, and all the townships lying east of that river, which have not been heretofore actually subdivided into sections, shall also be run and marked in the manner prescribed by the said act, for running and marking the interior lines of townships directed to be sold in sections of six hundred and forty acres each: And in all cases where the exterior lines of the townships, thus to be subdivided into sections or half sections, shall exceed, or shall not extend six miles, the excess or deficiency shall be specially noted, and added to, or deducted from, the western and northern ranges of sections or half sections in such township, according as the error may be in running the lines from east to west, or from south to north; the sections or half sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity expressed in the returns and plats respectively, and all others as containing the complete legal quantity: And the president of the United States shall fix the compensation of the deputy surveyors, chain carriers, and axe men.

The surveyor general shall cause all those lands north of the river Ohio, which were subdivided by running through the townships, parallel lines, each way, at the end of every two miles, and by marking a corner on each of the said lines, at the end of every mile, to be subdivided into sections, by running straight lines, from the mile corners thus marked to the opposite corresponding corners, and by marking, on each of the said lines, intermediate corners, as nearly as possible equidistant from the corners of the sections on the same. And the said surveyor general shall also cause the boundaries of all the half sections, which had been purchased previous to the first day of July, 1804, and on which the surveying fees had been paid according to law, by the purchaser, to be surveyed and marked, by running straight lines from the half mile corners heretofore marked, to the opposite corresponding corners; and intermediate corners shall, at the same time, be marked on each of the said dividing lines, as nearly as possible equidistant from the corners of the half section on the same line. And the expense of making the subdivisions above directed, shall be defrayed out of the moneys of the United States.

1209. The boundaries and contents of the several sections, half sections, and quarter sections, of the public lands of the United States, shall be ascertained in conformity with the following principles, any act or acts to the contrary notwithstanding:

1st. All the corners marked in the surveys, returned by the surveyor general, or by the surveyor of the lands south of the State of Tennessee, respectively, shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half and quarter sections, not marked on said surveys, shall be placed as nearly as possible equidistant from those two corners which stand on the same line.

2d. The boundary lines, actually run and marked in the surveys returned by the surveyor general, or by the surveyor of the land south of Tennessee, respectively, shall be established as the proper boundary lines of the sections, or subdivisions, for which they were intended; and the length of such lines, as returned by either of the surveyors aforesaid, shall be held and considered as the true length thereof. And the boundary lines, which shall not have been actually run and marked as aforesaid, shall be ascertained, by running straight lines, from the established corners to the opposite corresponding corners; but in those portions of the fractional townships, when no such opposite corresponding corners have been or can be fixed, the said boundary lines shall be ascertained by running, from the established corners, due north and south, or east and west lines, as the case may be, to the water course, Indian boundary line, or other external boundary of such fractional township.

3d. Each section, or subdivision of section, the contents whereof shall have been, or by virtue of the last article, shall be returned by the surveyor general, or by the surveyor of the public lands south of the State of Tennessee, respectively, shall be held and considered



as containing the exact quantity expressed in such return or returns; and the half sections and quarter sections, the contents whereof shall have not have been thus returned, shall be held and considered as containing the one-half, or the one-fourth, part, respectively, of the returned contents of the section of which they make a part.

In surveying and dividing the lands, by the act of the fourth of February, one thousand eight hundred and fifteen, attached to the district of Canton, the ordinary mode of surveying the public lands shall be so far deviated from, that the boundary lines of the tracts to be laid off therein shall be run parallel to, and at right angles with, the road laid out in conformity with the treaty concluded with certain tribes of Indians, at Brownstown, in the Michigan territory, on the twenty-fifth of November, one thousand eight hundred and eight, and in every other respect the surveys shall be made in the same manner, and for the same compensation allowed for the surveying the other public lands north-west of the river Ohio.

1210. All the public lands of the United States, the sale of which is, or may be authorized by law, shall, when offered at public sale, to the highest bidder, be offered in half quarter sections; and when offered at private sale, may be purchased at the option of the purchaser, either in entire sections, half sections, quarter sections, or half quarter sections, in every case of the division of a quarter section, the line for such division shall run north and south, and the corners and contents of half quarter sections, which may thereafter be sold, shall be ascertained in the manner directed and prescribed by article 1209; and fractional sections, containing one hundred and sixty acres, or upwards, shall, in like manner, as nearly as practicable, be subdivided into half quarter sections, under such rules and regulations as may be prescribed by the secretary of the treasury; but fractional sections, containing less than one hundred and sixty acres, shall not be divided, but shall be sold entire. The foregoing provisions shall not alter any special provision made by law for the sale of land in town lots.

1211. Whenever, in the opinion of the president, a departure from the ordinary mode of surveying land on any river, lake, bayou, or water course, would promote the public interest, he may direct the surveyor general, in whose district such land is situated, and where the change is intended to be made, under such rules and regulations as the president may prescribe, to cause the lands situated, to be surveyed in tracts of two acres in width, fronting on any river, bayou, lake, or water course, and running back the depth of forty acres; which tracts of land, so surveyed, shall be offered for sale entire, instead of in half quarter sections, and in the usual manner, and on the same terms, in all respects, as the other public lands of the United States.

1212. Any person who shall hereafter, in any manner, by threats or force, interrupt, hinder, or prevent, the surveying of the public lands of the United States, or any public land claim, which has, or may be confirmed by the United States, or the authority thereof, by

the persons authorized to survey the same, in conformity with the instructions of the commissioner of the general land office, or the principal surveyors in any of the districts, in any state or territory, shall be considered and adjudged to be guilty of a misdemeanor, and upon conviction in any district or circuit court of the United States, in any state or territory, having jurisdiction of the same, shall be fined a sum not less than fifty dollars, nor more than three thousand dollars, and be imprisoned for a period of time, not less than one nor more than three years.

1213. Whenever the president of the United States shall be satisfied that forcible opposition has been offered, or will likely be offered, to any surveyor or deputy surveyor, or assistant surveyor, in the discharge of his or their duties, in surveying the public lands of the United States, it shall and may be lawful for the president to order the marshal of the State or district, by himself or deputy, to attend such surveyor, deputy, or assistant surveyor, with sufficient force to protect such officer in the execution of his duty as surveyor and to remove force should any be offered.

1214. The president is required to cause the public lands lying along the line of demarcation between the States of Indiana and Illinois, as established by the joint sanction of those States, to be surveyed in connection with said line on either side thereof. And the secretary of the treasury is authorized to allow for the service such further compensation, in addition to the regular price now authorized by law, as to him appears to be just and reasonable, to be paid out of the regular appropriation for surveying public lands north west of the Ohio river.



STATE OF INDIANA, } SS:  
SECRETARY OF STATE'S OFFICE, }

I, Charles H. Test, Secretary of State for the State aforesaid, certify that I have compared the foregoing with the enrolled Acts and Joint Resolutions from which they were taken, now on file in my office, and have found them correctly printed. Words included [thus] were by me inserted to aid the sense.

{ L. S. }

In witness whereof I have hereunto set my hand and affixed the seal of the State, at Indianapolis, this 30th day of March, A. D., 1849.

CHARLES H. TEST,  
Secretary of State.



# EXTRACTS

FROM THE

## REPORT OF THE AUDITOR OF STATE,

For the year ending October 31, 1848.

AUDITOR OF STATE'S OFFICE,  
Indianapolis, Nov. 7, 1848. }

## RECEIPTS AT THE TREASURY.

There was remaining in the Treasury, at the close of the last financial year, provided all warrants audited to that time had been paid, the sum of - - - \$427,981 21

There was received during the financial year, ending October 31, 1848, as follows, viz :

On account of Revenue of 1839, the sum of - -	\$225 00
On account of Revenue of 1843, the sum of - -	294 51
On account of Revenue of 1845, the sum of - -	235 46
On account of Revenue of 1846, the sum of - -	762 35
On account of Revenue of 1847, the sum of - -	375,022 17
On account of Delinquent Revenue of 1845, the sum of -	931 48
On account of Delinquent Revenue of 1846, the sum of -	36,661 44
On account of Delinquent Revenue of 1847, the sum of -	217 76
On account of sales of Revised Statutes, - -	312 70
On account of Incidental Receipts, - -	248 50
On account of Estates without Heirs, - -	104 00
On account of Common School Fund, (five per cent. Scrip,) derived from Bank profits, - -	70,245 80
On account of collections of Suspended Debt by Agent of State, - -	94,883 73



On account of Bank Tax Fund, derived from the several Branches of the State Bank, - - - -	3,301 66
On account of interest on loans of Indianapolis Fund, - - - -	83 47
On account of damages on sales of land mortgaged to Treasury Fund, - - - -	6 14
On account of advertising sales of lands mortgaged to the Treasury Fund, - - - -	2 00
On account of sales of Saline lands in Orange and Washington counties, - - - -	821 31
On account of interest on loans of Treasury Fund, - - - -	65 15
On account of interest on sales of Saline lands in Orange, Washington, and Brown counties, - - - -	312 95
On account of interest on loans of Saline Fund, - - - -	1,785 99
On account of loans of Saline fund refunded, - - - -	2,517 00
On account of damages on sales of lands mortgaged to the Saline fund, - - - -	68 83
On account of costs of advertising sales of lands mortgaged to the Saline fund, - - - -	13 00
On account of loans of University fund refunded, - - - -	4,300 44
On account of interest on loans of University fund, - - - -	3,611 48
On account of sales of University lands in Gibson and Monroe counties, - - - -	1,090 18
On account of interest on sales of University lands, - - - -	788 03
On account of damages on sales of lands mortgaged to the University fund, - - - -	113 14
On account of costs of advertising sales of lands mortgaged to the University fund, - - - -	17 75
On account of loans of Bank Tax Fund refunded, - - - -	1,012 89
On account of interest on loans of Bank Tax fund, - - - -	502 33
On account of costs of advertising sales of lands belonging to Bank Tax fund, - - - -	2 00
On account of interest on loans of Surplus Revenue fund, - - - -	318 92
On account of Surplus Revenue fund refunded, - - - -	300 00
On account of interest on loans of Congressional township fund, - - - -	115 22
On account of tolls on the Wabash and Erie Canal, East of Tippecanoe, - - - -	36,627 50
On account of water rents on Wabash and Erie Canal, East of Tippecanoe, - - - -	750 00
On account of incidental expenses of Wabash and Erie Canal West, refunded, - - - -	396 74
On account of tolls on Wabash and Erie Canal West, prior to July 1st, 1847, - - - -	296 02
On account of water rents on Northern Division of Central Canal, - - - -	1,288 63
On account of tolls on New Albany and Vincennes Road, - - - -	3,596 19
On account of subscription by Bondholders for the construction of Wabash and Erie Canal, by Trustees, - - - -	407,960 63

On account of tolls and water rents from whole line of Wabash and Erie Canal, by Trustees, - - - -	84,731 93
On account of sales of lands E. and W. of Tippecanoe, by Trustees, - - - -	4,776 47
On account of Wabash and Erie Canal lands in Vincennes District, by Trustees, - - - -	31,933 06
On account of Scrip issued for Wabash and Erie Canal East of Tippecanoe, by Trustees, - - - -	42,907 06
On account of interest on Scrip issued for Wabash and Erie Canal East, by Trustees, - - - -	7,071 20
On account of Scrip issued for Wabash and Erie Canal West, by Trustees, - - - -	13,135 00
On account of interest on Deposits in New York, by Trustees, - - - -	8,511 15
Total receipts from November 1st, 1847, to Oct. 31st, 1848, inclusive, - - - -	\$1,245,306 36
To which add balance on hand, Nov. 1st, 1847, - - - -	427,981 21
Total, - - - -	\$1,673,287 57

## EXPENDITURES.

There were audited, during the financial year ending Oct. 31st, 1848, the following sums, viz :

On account of Probate Judges, - - - -	5,425 00
On account of conveying convicts to State Prison and salary of Warden, - - - -	3,086 00
On account of new State Prison, - - - -	2,867 33
On account of salaries of Supreme and Circuit Judges, - - - -	13,891 57
On account of State House, - - - -	505 23
On account of Specific Appropriations, - - - -	3,705 08
On account of Public Printing and Binding, - - - -	6,063 64
On account of Prosecuting Attorneys, - - - -	1,574 58
On account of pay and mileage of members of the last General Assembly, including pay of clerks, door-keepers, and other officers, - - - -	34,234 35
On account of State Library, including salary of Librarian, - - - -	1,090 16
On account of salaries of President and Professors of State University, - - - -	3,750 00
On account of salaries of Adjutant and Quarter Master General, - - - -	862 61
On account of Stationery and Fuel, - - - -	4,429 10
On account of salaries of Executive Officers, - - - -	3,550 00
On account of Contingent Fund, - - - -	323 70
On account of Presidential Electors of 1844, - - - -	6 50
On account of expenses of Governor's Circle, - - - -	22 87



On account of Governor's House, - - -	194 81
On account of distribution of laws and journals of last General Assembly, - - -	308 78
On account of Deaf and Dumb Asylum, - - -	11,765 83
On account of Education of the Blind, - - -	9,353 37
On account of Lunatic Asylum, - - -	15,897 53
On account of Saline Fund distributed, - - -	4,658 79
On account of Bank Tax Fund distributed, - - -	6,062 95
On account of Surplus Revenue Fund distributed, principal and interest, - - -	448 71
On account of Three per cent. fund distributed, - - -	482 80
On account of incidental expenses of Treasury Notes, - - -	279 00
On account of five per cent. Treasury Notes redeemed and cancelled, - - -	56,400 00
On account of interest on five per cent. Treasury notes, redeemed and cancelled, - - -	14,317 58
On account of expenses in the collection of the Suspended Debt, - - -	3,416 48
On account of six per cent. Treasury Notes redeemed and cancelled, - - -	70,580 00
On account of interest on six per cent. Treasury Notes redeemed and cancelled, - - -	26,788 60
On account of quarter per cent. Treasury Notes redeemed and cancelled, - - -	28,750 00
On account of interest on State Bonds cancelled, - - -	5,800 00
On account of incidental expenses of State Agents, - - -	17,126 03
On account of salaries of State Agents, - - -	2,766 66
On account of interest on the State Debt, - - -	262,330 00
On account of redemption of two and a half per cent. State Stock, - - -	17,850 00
On account of State Bonds cancelled, - - -	20,000 00
On account of payments under joint resolution by State Agent, - - -	5,578 18
On account of interest refunded to Lawrenceburgh and Indianapolis Railroad Company, - - -	153 75
On account of Revenue of 1846 refunded, - - -	742 06
On account of Revenue of 1847 refunded, - - -	40 24
On account of Delinquent Revenue of 1845 refunded, - - -	82 83
On account of sales of Saline lands refunded, - - -	633 62
On account of interest on loans of Saline fund refunded, - - -	21 00
On account of costs of advertising sales of lands mortgaged to Saline fund, - - -	22 15
On account of loans of University fund, - - -	4,138 00
On account of sales of University lands refunded, - - -	48 00
On account of interest on loans of University Fund refunded, - - -	11 20
On account of interest on sales of University lands refunded, - - -	76 92

On account of costs of advertising sales of lands mortgaged to University fund, - - -	53 88
On account of damages on sales of lands mortgaged to Bank Tax fund, - - -	25 00
On account of costs of advertising sales of lands mortgaged to Bank Tax fund, - - -	14 17
On account of costs of advertising sales of lands mortgaged to Treasury fund, - - -	2 50
On account of costs of advertising sales of lands mortgaged to Surplus Revenue fund, - - -	2 50
On account of loans of congressional township fund, - - -	250 00
On account of interest of Congressional Township fund distributed, - - -	85 26
On account of repairs of New Albany and Vincennes Road, - - -	2,330 67
On account of incidental expenses of New Albany and Vincennes Road, - - -	1,265 52
On account of construction of Northport Feeder, - - -	4,030 22
On account of incidental expenses of Northport Feeder, - - -	259 55
On account of damages on Northport Feeder, - - -	970 00
On account of repairs on Wabash and Erie Canal East, - - -	41,112 14
On account of incidental expenses of Wabash and Erie Canal East, - - -	3,420 73
On account of damages on Wabash and Erie Canal East, - - -	2,965 00
On account of water rents of Wabash and Erie Canal refunded, - - -	721 00
On account of Wabash and Erie Canal Scrip East, cancelled, - - -	14,165 45
On account of interest on Wabash and Erie Canal Scrip East, - - -	2,119 94
On account of construction of Wabash and Erie Canal West, - - -	11,077 00
On account of repairs on Wabash and Erie Canal West, - - -	29,023 18
On account of incidental expenses of Wabash and Erie Canal West, - - -	4,951 72
On account of damages for right of way of Wabash and Erie Canal West, - - -	1,260 14
On account of Wabash and Erie Canal Scrip, West of Tippecanoe, cancelled, - - -	31,425 00
On account of repairs on Northern Division Central Canal, - - -	17,906 55
On account of incidental expenses of Northern Division of Central Canal, - - -	972 50
On account of General Expenses of Trustees of Wabash and Erie Canal, - - -	15,037 42



On account of expenses of Land Office of Wabash and Erie Canal lands in Vincennes District, -	1,854 85
On account of expenses of Land Office for Canal lands East and West of Tippecanoe, -	893 22
On account of ordinary expenses of Wabash and Erie Canal, entire line, -	6,178 07
On account of Coal Creek Division of Wabash and Erie Canal, -	4,159 50
On account of ordinary repairs of Wabash and Erie Canal, -	14,364 47
On account of extraordinary repairs of Wabash and Erie Canal, -	7,072 14
On account of expenses of surveys and locating Wabash and Erie Canal, -	3,606 70
On account of construction of Wabash and Erie Canal between Coal Creek and Terre Haute, -	61,840 00
On account of expenses of superintending Wabash and Erie Canal, -	3,032 10
On account of salaries and office expenses of toll collectors, -	1,797 50
On account of Wabash and Erie Canal South of Terre Haute, -	433 00
On account of interest to subscribers of \$800,000, -	16,000 00
Total amount audited from Nov. 1, 1847, to Oct. 31, 1848, both days inclusive, -	<u>\$979,191 48</u>

## STATE OF THE TREASURY.

Balance in the Treasury on the 31st of Oct., 1847, -	\$427,981 21
Amount of receipts at the Treasury on account of all funds during the year ending Oct. 31st, 1848, -	1,245,306 36
	<u>\$1,673,287 57</u>
Amount of warrants drawn on the Treasury on all accounts during the year ending Oct. 31, 1848, as above, -	979,191 48
Balance in the Treasury on the 31st of Oct., 1848, -	<u>\$694,096 09</u>

The above statement of the receipts and expenditures during the past year presents apparently a very prosperous condition of the finances of the State, and shows a very large balance in the Treasury. To avoid misapprehension however, it is proper to state, that this balance, like the balances which have been reported as in the

Treasury at the close of each of several of the last years, is almost wholly unavailable in meeting the demands upon the Treasury. A large portion of it, amounting to \$401,644 27, consists of a balance in the hands of the Trustees of the Wabash and Erie Canal, over which the Treasury Department has no control. Of the residue, \$90,401 76 consists of six per cent. Treasury Notes and interest, \$31,929 79 of quarter per cent. Treasury Notes and interest, \$73,128 68 of five per cent. or Bank Scrip and interest, \$50,861 52 of Wabash and Erie Canal Scrip east and interest, about \$25,000 of Wabash and Erie Canal Scrip west, and \$8,133 49 of funds in the hands of the Agent of State in New York—leaving in the Treasury, available for ordinary expenditures, about \$12,999 58. This amount it is supposed, will be sufficient to meet the ordinary expenditures until receipts shall be realized from the revenue of 1848 now in process of collection, and portions of which, it may be reasonably expected, will be forwarded to the Treasury early in the ensuing month.

It is gratifying to be able to state, that the receipts at the Treasury, arising from the taxes of 1847 and the delinquencies of previous years, have equalled the highest expectations. More of them, it is true, have consisted of Treasury Notes (six per cent. and quarter per cent.) than was anticipated; but still all the ordinary demands upon the Treasury have been promptly paid in current funds, and a large amount appropriated to the payment of the interest on the public debt. During the past year, as well as during the preceding one, a considerable amount of old claims has been presented and discharged, and it is believed that there are now scarcely any outstanding demands upon the Treasury of an ordinary character, save what may be due to judiciary and other officers for the last quarter, and which as previously stated, the Treasury is prepared to meet.

It may be proper, in this connexion, to state, that the interest on the State Debt has, thus far, been promptly met at the several periods when it became due, viz., in July, 1847, and in January and July, 1848. At an early period of the last session of the General Assembly, an act was passed authorizing the Governor, Auditor, and Treasurer of State to borrow from the Branches of the State Bank of Indiana a sum not exceeding ninety-five thousand dollars, to be applied to the payment of the instalment of interest falling due the 1st of January, 1848. This object was accomplished without difficulty, the Banks cheerfully furnishing the amount required, on notes drawn by the officers of State before mentioned. These notes were paid at maturity out of the revenue of 1847. Early in the month of June last, it became necessary to make provision for the semi-annual interest becoming due the 1st of July. Making an estimate for, and setting aside the means necessary to meet, the ordinary expenditures of the State government, it was ascertained that the amount remaining in the Treasury, including a balance in the hands of the Agent of State, would leave a deficiency of about



\$40,000 in meeting that interest. On full and free consultation among themselves, and with the officers of the State Bank, and others deeply interested in the preservation of our State credit, it was deemed advisable again to borrow the balance requisite to pay that instalment of interest. Although there was no law authorizing the loan, the Banks willingly tendered the amount on notes drawn as above, and thus the July interest was also promptly paid, leaving the Treasury indebted to the amount of \$40,000, which falls due the first of January, 1849. In relation to the instalment of interest which will become due on the first of January next, it is proper to remark, that, although the current funds which will be derived from the State revenue of 1848 and the delinquencies of previous years, will be more than sufficient to meet the debt due to the Banks on account of the July instalment of interest, and the whole of the ensuing January instalment, yet, inasmuch as the larger portion of the amount derivable from those sources will probably not be realized at the Treasury until the settlements with the County Treasurers late in February, it cannot be safely assumed that the receipts at the Treasury, up to the first of January, will do more than pay the ordinary expenses and discharge the debt of \$40,000 due at that time to the Banks. To meet the January interest therefore will require another temporary loan, which, should the Legislature deem it proper to authorize it, may, it is supposed, again be obtained from the Branch Banks, payable after the settlements shall be made by the Treasurers. This matter, however, is respectfully submitted to the consideration of the General Assembly, whose province it will be to determine the best course of policy to be pursued in view of the credit of the State and the best interests of all concerned. That there will be a deficiency in the revenues of the State (allowing for a large amount of Treasury Notes which will undoubtedly again come into the Treasury) to pay the whole of the interest for July, 1849, after discharging the amounts due for July, 1848, and for January, 1849, is quite certain; but the probable amount of this deficiency will be more appropriately stated, in a subsequent part of this report, in an estimate of the resources and liabilities of the State.

#### ORDINARY EXPENSES OF STATE GOVERNMENT.

The ordinary expenses of the State Government for the year ending October 31st, 1848, have been as follows:

Amount audited on account of Probate Judges, -	\$5,425 00
Amount audited on account of State Prison, -	3,086 00
Amount audited on account of salaries of Judges, -	13,891 57
Amount audited on account of State House, -	505 23
Amount audited on account of Specific Appropriations, -	3,705 08
Amount audited on account of Public Printing, -	6,063 64

Amount audited on account of Prosecuting Attorneys, -	1,574 58
Amount audited on account of Legislature, -	34,234 35
Amount audited on account of State Library, -	1,090 16
Amount audited on account of Militia, -	862 61
Amount audited on account of Stationery and Fuel, -	4,429 10
Amount audited on account of Executive Officers, -	3,550 00
Amount audited on account of Contingent Fund, -	323 70
Amount audited on account of Governor's Circle, -	22 87
Amount audited on account of Distribution of Laws, -	308 78
Amount audited on account of Governor's House, -	104 81
Amount audited on account of Presidential Electors, -	6 50
Total, - - - - -	<u>\$79,273 98</u>

The estimate of last year for *ordinary* expenses of 1848, was, - - - - - 71,900 00

Showing a deficiency in the estimate of last year, \$7,373 98

The actual expenditures properly denominated *ordinary* for the year 1847, were, - - - - - \$90,762 00  
From which take the expenditures of 1848, - - - - - 79,273 98

Decrease in the expenditures of 1848, - - - - - \$11,488 02

It will be seen, by the foregoing statement, that the ordinary expenditures during the last year, although very considerably less than the year preceding, exceed the estimate made in last year's report upwards of seven thousand dollars. The excess of the expenditures over the estimates will be found principally in the Legislative, Probate, Stationery and Fuel, and State Prison accounts, almost all the other accounts being within, and most of them below, the estimates. The increase of the Legislative account was caused principally by an adjournment, in the early part of the winter, on account of the sudden appearance of the Small Pox, in a very malignant form, in one of the leading Public Houses where many Members were boarding. The Probate account exceeds the estimate in consequence of the presentation of old claims, in one case extending over a period of five or six years, which for some cause (probably under the apprehension that if demanded when due they would be paid scrip,) were never presented for payment until during the last year. The Stationery account was increased by the unusually large size of the Local Acts and the Journals. The State Prison account was enhanced by the increase in the number of convicts conveyed to the State Prison, a considerable number being from remote counties. But for these unexpected causes, which of course could not be foreseen, the expenditures would have been



less than the estimates, and, notwithstanding those occurrences, they are very considerably below those of the previous year. It is confidently believed that the old balances, which had been accumulating for years, are now nearly all discharged, and the expenditures of the current year will therefore consist of little else than such as legitimately belong to it.

The amounts which will probably be needed to meet the ordinary expenditures of 1849 alone may be estimated as follows:

On account of Legislature,	\$30,000
On account of Judiciary,	14,500
On account of Executive Officers,	5,000
On account of Public Printing, (including Binding),	6,000
On account of Probate Judges,	4,500
On account of Specific Appropriations,	3,500
On account of Stationery and Fuel,	2,500
On account of State Prison,	300
On account of Contingent Fund,	500
On account of Prosecuting Attorneys,	500
On account of Distribution of Laws, &c.,	450
On account of State Library,	800
On account of Militia,	200
On account of State House,	200
On account of Governor's House,	200
On account of Governor's Circle,	100
On account of Transportation of Public Arms,	100
	<u>\$72,000</u>

#### ESTIMATE OF RECEIPTS AND EXPENDITURES FOR 1848.

The estimated resources of the State, applicable to the ordinary expenditures of the government for the current year, and to the payment of the interest on the State Debt, may be stated as follows, viz:

Amount of State taxes of 1848 from County Treasurers,	\$407,000
Amount of delinquent taxes of 1847 and previous years,	40,000
Amount of revenue from Branches of State Bank,	5,000
Amount of revenue from Madison and Indianapolis Railroad Company, about	5,000
Amount from miscellaneous sources,	5,000
	<u>\$462,000</u>

From which deduct for ordinary expenditures,	\$72,000
On account of Deaf and Dumb, Lunatic, and Blind Asylums,	50,000

On account of Treasury Notes and interest which will probably come into the Treasury this year,	100,000
On account of costs of collections and deductions,	24,000
On account of balances of Trust Funds in the Treasury, say	10,000
	<u>256,000</u>

Leaving in the Treasury the sum of - - - \$206,000

The amount which will probably be needed to pay the interest on the State Debt for the current year may be stated thus:

For January interest and exchange,	\$95,000
For July interest and exchange,	95,000
	<u>\$190,000</u>
To which add for amount due the Banks for interest of July, 1848,	40,000
	<u>\$230,000</u>

Balance in the Treasury according to the previous estimate,	206,000
Probable deficiency to meet the interest for July, 1849,	24,000
	<u>\$230,000</u>

The foregoing estimates, it is believed, will be found to approximate the true amounts of the receipts and expenditures of the State for the present year, provided there be no extraordinary demands upon the Treasury, and provided the amount of Treasury Notes paid in for revenue shall not exceed the sum stated. It will be observed that the balance of current funds in the Treasury at the close of the last fiscal year, amounting to upwards of \$12,000, is not computed in the foregoing estimate. That there will be demands upon the Treasury for considerable amounts, growing out of acts passed during the last winter for the relief of individuals who performed contracts on the public works, is quite probable. Information indeed has already been received at this office, that an award, and afterwards a judgment, for about \$14,000 was obtained during the summer by Messrs. J. & E. Beard, of Lafayette, which however is understood to be pending in the Supreme Court. If the judgment be affirmed, the balance in the Treasury will of course be subjected to a reduction of that amount.



## INTEREST ON THE STATE DEBT.

The amount of interest paid by the State, through her agency in the city of New York, at the respective periods when due, from 1st of July, 1847, to 1st of October, 1848, both dates inclusive, is as follows, viz :

*Dividend No. 1.—Interest due July 1st, 1847.*

Amount due on 5 per cent. State Stock, Oct. 1st, 1847,	\$81,320 00
Amount paid by M. G. Bright to Oct. 1st, 1847, -	78,600 00
Balance uncalled for,	\$2,720 00
Amount subsequently paid by M. G. Bright, and prior to the expiration of his term of office, -	2,290 00
Balance due up to Jan. 1st, 1848, - - - -	430 00
Amount paid by Jas. Collins, from Jan. 1st, to Oct. 1st, 1848, - - - -	160 00
Balance unpaid Oct. 1st, 1848, - - - -	\$270 00

*Dividend No. 2.—Interest due Jan. 1st, 1848.*

Amount due on 5 per cent. State Stock, Jan. 1st, 1848,	\$90,590 00
Amount paid by M. G. Bright, - - - -	85,775 00
Balance unpaid at expiration of M. G. Bright's term of service, - - - -	\$4,815 00
Amount paid by Jas. Collins, up to Oct. 1st, 1848, -	4,035 00
Balance of Jan. 1848 interest unpaid on 1st Oct. 1848,	\$780 00

*Dividend No. 3.—Interest due July 1st, 1848.*

Amount due July 1st, 1848, - - - -	\$91,580 00
Amount paid by Jas. Collins, - - - -	89,910 00
Balance of interest due July 1st, 1848, unpaid Oct. 1st, 1848, - - - -	\$1,670 00

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## ADJUTANT GENERAL:

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